



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

Legal Services of Eastern Missouri, Inc.
Compliance Review
September 8-12, 2014

Recipient No. 526020

LSC Compliance Review Team

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I. EXECUTIVE SUMMARY

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

Finding 2: LSEM's intake procedures and case management system generally support compliance related requirements; however, exceptions were noted regarding screening some walk-in applicants for citizenship/alien eligibility.

Finding 3: LSEM maintains the income eligibility documentation required by 45 CFR Part 1611, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions. However, a revision to its financial eligibility policy is warranted to demonstrate compliance with this regulation.

Finding 4: LSEM maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

Finding 5: LSEM is in compliance with the requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens). However, LSEM's written policy must be modified to comply with 45 CFR § 1626.12.

Finding 6: LSEM is in substantial compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).

Finding 7: Sample cases, interviews, and a review of LSEM's policies evidenced substantial compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts). However, LSEM's written policy must be modified to comply with 45 CFR Part 1636.

Finding 8: Sampled cases indicated that LSEM is in compliance with the requirements of 45 CFR §§ 1620.3(a) and 1620.6 (Priorities in the use of resources). However, LSEM's written policy must be modified to comply with 45 CFR § 1620.4.

Finding 9: LSEM is in substantial compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).

Finding 10: LSEM's application of the CSR case closure categories is generally consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011), however, there were some exceptions.

Finding 11: LSEM is in compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely closing and dormant cases).

Finding 12: LSEM is in compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.2 regarding duplicate cases.

Finding 13: Review of the timekeeping records and interviews with full-time attorneys evidenced that LSEM is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law). However, LSEM's written policy must be modified to comply with 45 CFR Part 1604.

Finding 14: A limited fiscal and sampled cases reviewed, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 15: Review of the recipient's sampled cases, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases), and no fee-generating cases were noted. However, LSEM's written policy needs to be modified to comport with 45 CFR Part 1609.

Finding 16: A limited review of LSEM's accounting and financial records indicated compliance with 45 CFR Part 1610 in regard to the use of non-LSC funds, transfers of LSC funds and program integrity. LSEM is in compliance with 45 CFR § 1610.5 (Notification).

Finding 17: LSEM is in compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. LSEM has met their required 12.5% PAI expenditures for the years 2012 and 2013.

Finding 18: LSEM is in compliance with the requirements of 45 CFR Part 1627 which prohibits recipients from using LSC funds to pay membership fees or dues to any private or nonprofit organization and regulates the requirements for all subgrants. However, LSEM's written policy requires modification to fully comply with 45 CFR Part 1627.

Finding 19: Review of the recipient's policies, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with 45 CFR Part 1635 (Timekeeping requirement).

Finding 20: Review of sampled cases, as well as interviews with members of management and staff, evidenced compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

Finding 21: Review of sampled cases, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). However, LSEM's written policy requires modification to comply with 45 CFR § 1612.11. Special Grant Condition ("SGC") number four (4) imposed on LSEM in 2014 has been satisfied and complied with.

Finding 22: Review of recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and actions collaterally attacking criminal convictions).

Finding 23: Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 24: Review of sampled cases, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 25: Review of sampled cases, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings). However, the written policy needs modification.

Finding 26: Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 27: Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 28: Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

Finding 29: Review of sampled cases and interviews with members of management and staff, evidenced that LSEM is in compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

Finding 30: Review of LSEM's policies evidenced substantial compliance with the requirements of 45 CFR Part 1644. (Disclosure of case information). LSEM must modify their written policy pertaining to 45 CFR Part 1644.

Finding 31: The Accounting Manual was reviewed and it was determined that it was in general compliance with LSC's requirements. However, the Board of Directors ("BOD") did not review and approve the Accounting Manual as required by LSC's Accounting Guide.

Finding 32: A review of the Segregation of Duties Worksheet, a matrix of internal controls and the employees who perform financial functions, designed by OCE and completed by the Director of Finance (“DF”), disclosed that there are strong segregation of duties within the financial processing of transactions at LSEM.

Finding 33: Based upon an interview with the Treasurer of LSEM’s BOD and a limited review of BOD meeting minutes for the time period of June 2013 to July 2014, it was disclosed that LSEM’s BOD is in compliance with LSC’s regulations and requirements.

Finding 34: A limited review of the cash receipts was performed for selected receipts recorded in the operating checking account in May 2014. The review disclosed that LSEM has adequate policies and proper internal controls surrounding cash receipts, which are in compliance with LSC’s requirements.

Finding 35: A limited review of cash disbursements evidenced that LSEM has adequate policies and procedures which include proper internal controls surrounding such disbursements, and in compliance with LSC’s requirements.

Finding 36: A limited review of the policies and procedures surrounding expense reports and credit card statements and the processing of such transactions disclosed compliance with LSC’s requirements.

Finding 37: Travel advances disclosed that there are proper internal controls and procedures surrounding the transactions.

Finding 38: A limited review of the bank account reconciliations for compliance with the LSC Accounting Guide and LSEM’s policies and procedures disclosed that bank reconciliations are not being approved by an employee independent of the accounting function, as required by LSC.

Finding 39: A review of LSC Accounting Guide requirements compared to LSEM’s policies and procedures concerning client trust accounts, and a limited review of transactions within the funds during May 2014, disclosed compliance with LSC’s and LSEM’s requirements.

Finding 40: A limited review of LSEM’s petty cash policies and procedures revealed compliance with LSC’s regulations, and a review of the St. Louis Office’s petty cash transactions for the month of February 2014 disclosed no deficiencies or weaknesses.

Finding 41: A limited review of LSEM’s fixed assets policies and procedures disclosed compliance with LSC requirements. Additionally, a review of the fixed asset ledger and selected assets disclosed compliance with LSC’s requirements.

Finding 42: A review to determine if LSEM’s purchasing policies and procedures were in compliance with LSC’s requirements was conducted and disclosed that bids are not always obtained for purchases over \$5,000.

Finding 43: A limited review of LSEM's payroll policies and procedures and the processing of a sample of pay checks during the payroll period disclosed general compliance with LSC's requirements and recommendations. However, the payroll procedures do not state that the payroll is to be reviewed and approved by an employee independent of the payroll function.

Finding 44: The security surrounding the Information Technology ("IT") systems at LSEM is adequate and in compliance with LSC's requirements.

Finding 45: A review conducted of LSEM's Record Retention Policy and the related procedures disclosed compliance with LSC's requirements.

Finding 46: The review of the insurance policy disclosed that LSEM is in compliance with 45 CFR Part 1629 (Bonding of Recipients).

II. BACKGROUND OF REVIEW

On September 8-12, 2014, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") conducted an on-site Compliance Review at Legal Services of Eastern Missouri, Inc. ("LSEM"). The purpose of the visit was to assess the recipient's compliance with the LSC Act, regulations, and other applicable LSC guidance such as Program Letters, the Accounting Guide for LSC Recipients (2010 Ed.), and the Property Acquisition and Management Manual. The visit was conducted by a team of four (4) attorneys and two (2) fiscal compliance analysts. Five (5) members of the team were OCE staff members and one (1) member was a temporary employee.

LSEM's main office is located in St. Louis, MO and the program has branch offices in Hannibal, Union, and in the St. Louis County Family Court Project office, located in St. Louis, MO. LSEM provides legal assistance in civil cases in the areas of family, housing, consumer, education, health care, immigration, public benefits, income maintenance, community economic development, and problems specific to the elderly.

LSEM's LSC Grantee Profile indicates a total staff of 66, including 28 attorneys, 21 paralegals, and 17 "other" staff. In 2014, LSEM's Basic Field Grant was \$1,958,043, in 2013 it was \$1,819,733 and, in 2012, it was \$1,846,684.

In its 2013 submission to LSC, LSEM reported 4,789 closed cases, of which 66.2% were closed as limited service cases, and 33.8% were closed as extended service cases. In its 2012 submission, the program reported 5,659 closed cases, of which 63.1% were closed as limited service cases, and 36.9% were closed as extended service cases. LSEM's 2013 self-inspection certification revealed a 5.0% error rate in CSR reporting and LSEM's 2012 self-inspection certification revealed a 1.1% error rate in CSR reporting. The excepted cases in the 2013 self-inspection submission were: cases where household income was over 125% but not over 200% of the poverty line and the required documentation was not in the file; non-telephone cases which lacked citizenship attestation or documentation of alien eligibility (and the client was not eligible under VAWA 2006 or TVPA); counsel and advice or limited action cases opened prior to October 1, 2011, and not falling under the exception 3.3 (a) (ii) of the CSR Handbook (2008 Ed., as amended 2011); not falling under the exception in § 10.3 of the CSR Handbook (2008 Ed. as amended 2011); and cases reported more than once in 2013 with the same client, problem code, and set of facts.

The on-site review was designed and executed to assess LSEM's compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that LSEM correctly implemented the 2008 CSR Handbook, as amended in 2011. Specifically, the review team assessed LSEM for compliance with the regulatory requirements of: 45 CFR Part 1611 (Financial eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); 45 CFR § 1611.9 (Retainer agreements); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1604 (Outside practice of law); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds,

program integrity); 45 CFR Part 1614 (Private attorney involvement);¹ 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); former 45 CFR Part 1642 (Attorneys' fees);² 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); and 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion); and whether the program's policies and procedures compared favorably to the elements outlined in Chapter 3-Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of the Accounting Guide for LSC Recipients (2010 Ed.).

In preparation for the visit, by letter dated June 6, 2014, OCE requested that LSEM provide certain case lists. Case lists requested included all cases reported in its 2012 CSR data submission ("closed 2012 cases"), all cases reported in its 2013 CSR data submission ("closed 2013 cases"), all cases closed between January 1, 2014 and July 15, 2014 ("closed 2014 cases"), and all cases which remained open as of July 15, 2014 ("open cases"). OCE requested that two (2) sets of lists be compiled - one (1) for cases handled by LSEM staff and the other for cases handled through LSEM's PAI component. OCE requested that each list contain the client name, the file identification number, the name of the case handler assigned to the case, the opening and closing dates, the CSR case closure category assigned to the case, the funding code assigned to the case, and an indication of whether the case was handled by staff or by a private attorney pursuant to 45 CFR Part 1614. LSEM was advised that OCE would seek access to case information consistent with Section 509(h), Pub. L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10, 11, and 12, and the LSC *Access to Records* protocol (January 5, 2004). OCE instructed LSEM to notify OCE promptly, in writing, if it believed that providing the requested material, in the specified format, would violate the attorney-client privilege or would be otherwise protected from disclosure.

On July 3, 2014, LSEM responded in writing and stated the following:

LSEM seeks to not produce our clients' names as part of the various lists of cases requested by OCE. We believe that such name disclosure by LSEM would violate our obligation to keep clients' information confidential under Rule 4-1.6 of the Missouri Rules of Professional Conduct for attorneys. Rule 4-1.6 provides in pertinent part: 'A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation...'

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

² On December 16, 2009, the enforcement of this regulation was suspended and the regulation was later revoked during the LSC Board of Directors meeting on January 30, 2010. During the instant visit, LSC's review and enforcement of this regulation was therefore only for the period prior to December 16, 2009.

Additionally, if LSC used the list of client names to request specific information about the client's case file, which has already been affiliated with a client name, this would be a violation of Rule 4-1.6. From our experience with the Missouri Office of Chief Disciplinary Counsel and Missouri's State Ethics counsel, this state has adopted a highly restrictive construction of Rule 4-1.6.

LSEM proposed to protect the identity of its clients by using unique client identifiers ("UCI"), generated by Kemps Prime Case Management Software. LSEM also indicated that they would use intermediaries for the case review.

According to the access letter dated July 30, 2014, LSEM opted to use a UCI to protect the confidentiality of client names. The UCI was comprised of an alpha-numeric combination of the client's first initial, last name, and the client's date of birth.

Thereafter, LSEM provided the materials in a timely manner. OCE made an effort to create a representative sample of cases that the team would review during the visit. OCE distributed the sample proportionately among open and closed cases. The sample consisted largely of randomly selected cases, but also included cases selected to test for compliance with those CSR instructions relative to timely case closings, ACMS data integrity, application of the CSR case closure categories, and duplicate reporting.

During the visit, LSEM cooperated fully and provided the requested materials. LSEM afforded access to information in the case files through staff intermediaries. LSEM maintained possession of the case files and disclosed financial eligibility information, problem code information, and information concerning the general nature of the legal assistance provided to the client pursuant to the OCE and LSEM agreement of July 30, 2014.

OCE reviewed a sample of 505 cases and interviewed members of LSEM's upper and middle management, fiscal personnel, staff attorneys, and support staff. OCE assessed LSEM's case intake, case acceptance, case management, and case closure practices and policies for staff and Private Attorney Involvement ("PAI") programs. OCE fiscal staff reviewed LSEM's compliance with the LSC grant, conducting a limited review of internal controls and assessed whether LSEM engaged in prohibited political activities, received fees from non-permissible fee-generating cases or non-permissible attorney fee awards, or engaged in lobbying activity, as well as reviewed LSEM's use of non-LSC funds, its PAI component allocations, its use of LSC funds to pay membership dues and fees, its timekeeping, cost standards and procedures, and other fiscal activities. A sampling of informational pamphlets and brochures was reviewed for compliance with 45 CFR Part 1608.

During the course of the visit, OCE advised LSEM of any compliance issues as they arose. OCE notified members of LSEM's upper and middle management and fiscal personnel of compliance issues identified during the review which require modification.

OCE advised LSEM of its preliminary findings by exit conference on Thursday, September 11, 2014. During the exit conference, OCE advised LSEM that, with few exceptions, its staff

members were familiar with the LSC regulations, the CSR Handbook, and the Frequently Asked Questions disseminated by LSC, and that LSEM has in place policies, procedures, and practices designed to facilitate compliance-related activities. LSEM was also made aware of several written policies which required modification. In order to fully comply with LSC regulations, OCE explained to LSEM that the findings were preliminary, that OCE may make further and more detailed findings in the Draft Report, and that LSEM would have 30 days to submit comments to the Draft Report. LSEM was advised that a Final Report would be issued that would include LSEM's comments, where appropriate. LSEM was further advised that OCE may request additional documentation or a demonstration that the required corrective action items have been implemented.

On December 9, 2014, LSEM provided additional information and documents to address some of the concerns raised by OCE during the review and at the exit conference. This additional information and documents was received just prior to the Draft Report ("DR") being issued and LSEM was informed that the information would be considered when incorporating any other additional comments LSEM submitted in response to the DR.

By letter dated January 8, 2015, OCE issued a DR detailing its findings, recommendations, and Required Corrective Actions. LSEM was asked to review the DR and provide written comments. By letter dated February 5, 2015, LSEM submitted its comments to the DR. OCE has carefully considered LSEM's comments and either accepted and incorporated them within the body of the report, or responded accordingly. LSEM's December 2014 and February 2015 comments, in their entirety, are attached to this Final Report.

III. FINDINGS

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

Recipients are required to utilize automated case management systems 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 (2008 Ed., as amended 2011), § 3.1.

LSC has determined that certain ACMS fields that are critical to eligibility (number in household, income, assets, citizenship/alien eligibility status, and LSC eligibility) may not have defaults because they tend to reduce the accuracy of the data submitted. Accuracy is reduced as there is no way to determine whether staff entering data into ACMS fields made an inquiry and decision regarding what should be entered in the field or simply skipped over the field, allowing the default value to be recorded. *See* Program Letter 02-06.

Based on both interviews and a comparison of the information elicited from the ACMS to information contained in the hard files sampled, LSEM’s ACMS is sufficient to ensure that information necessary for the effective management of cases is timely and accurately recorded.

There were no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 2: LSEM’s intake procedures and case management system generally support compliance related requirements; however, exceptions were noted regarding screening some walk-in applicants for citizenship/alien eligibility.

To assess LSEM’s intake procedures and case management policy for compliance with LSC requirements, intake, case handler, and management staff were interviewed. The review revealed that intake procedures and practices generally support LSEM’s compliance related requirements with respect to performing conflict and duplicate checks during the intake process, screening for income and assets, and citizenship screening.

St. Louis Office (General Intake)

The St. Louis office conducts both walk-in and telephone intake. The following departments conduct their own intake: General Intake, Immigration, Complete Health Improvement Project (“CHIP”), Medical/Legal Aid, and the Advocates for Family Health.

General Intake conducts walk-in or telephone intake screenings Monday through Thursday from 8:30 a.m. to 3:30 p.m., and on Friday from 1:30 p.m. to 3:30 p.m. There are six (6) intake

paralegals in this department, who are supervised by LSEM's Associate Director of Administration. The screening process for walk-in and telephone intakes is identical, in that the same eligibility questions are asked and the procedures for resolving conflicts and spending down an applicant's income are the same. The only difference is that walk-in applicants are asked to sign a citizenship attestation or provide verification of eligibility, whereas telephone applicants are required to verbally attest to their eligibility. Once an applicant's eligibility has been determined, the intake paralegal will accept the case for advice and counsel; all applicants who are deemed ineligible at the conclusion of the intake screening are informed at that time that their case cannot be accepted for services. After accepting the case, the applicant is informed by telephone that an attorney from the appropriate department (e.g., Consumer, Housing, Family Law, etc.) will contact them to provide them with advice, and the paralegal forwards the case to the appropriate department for assignment to an advocate. Once the case is assigned to an advocate, the advocate will contact the client to provide advice and may decide to provide extended services, based on the facts of the client's case, the advocate's availability, and LSEM's available resources.

Immigration

Immigration conducts walk-in or telephone intake on an as-needed basis Monday through Friday, from 9:00 a.m. to 5:00 p.m. There are two (2) intake specialists both of whom are supervised by a Managing Attorney. The intake specialists primarily conduct in-person intake screenings and verify eligibility prior to accepting the case and providing legal advice. The specialists inform applicants in person, as well as by telephone and/or mail, if their case has been accepted or rejected. Case closing codes are assigned by each advocate. Case files are reviewed every two (2) months by the Managing Attorney/Project Manager. The Associate Director of Client Services reviews the Managing Attorney/Project Manager's cases periodically.

Complete Health Improvement Project/Medical-Legal

The Complete Health Improvement Project/Medical-Legal conducts walk-in or telephone intake on Monday through Friday, from 9:00 a.m. to 5:00 p.m. There is one (1) Project Manager, one (1) staff attorney, and the Associate Deputy Director of Client Services. The attorney primarily conducts in-person intake screenings and verifies eligibility prior to accepting the case and providing legal advice. The attorney informs applicants in person, as well as by telephone and/or mail, if their case has been accepted or rejected. Unit meeting are held weekly with the Project Manager, staff attorney, and the Associate Director of Client Services. Case closing codes are assigned by each advocate. Case files are reviewed every two (2) months by the Managing attorney/Project Manager and the Associate Director of Client Services.

Advocates for Family Health

Advocates for Family Health Unit conducts walk-in or telephone intake on Monday through Friday, from 9:00 a.m. to 5:00 p.m. There is one (1) Managing Attorney and three (3) staff non-attorneys. All three (3) non-attorney advocates conduct in-person intake screenings and verify eligibility prior to accepting the case and providing legal advice. The advocates inform applicants in person, as well as by telephone and/or mail, if their case has been accepted or

rejected. Citizenship attestations and retainer agreements are sometimes mailed to the client. In those instances, once the client visits the office, the advocate goes over the retainer agreement and obtains additional facts concerning the client's case. No unit meeting is held, and the advocates of the unit make their own decision on what cases they will accept. Case closing codes are assigned by each advocate. Case files are reviewed every two (2) months by the Managing Attorney/Project Manager. The Associate Director of Client Services reviews the Managing Attorney/Project Manager's cases periodically.

Hannibal Office

The Hannibal office conducts walk-in intake and telephone intake on Monday through Friday, between the hours of 8:30 a.m. and 5:00 p.m. There is one (1) primary intake staff person, a paralegal, who conducts the intake for all Family Health Advocate ("FHA") cases. Intake for cases that do not fit the definition of an FHA case is conducted by LSEM's St. Louis General Intake and, after eligibility has been determined, the case is forwarded to the Hannibal office to provide services. For certain types of FHA cases (*e.g.*, Medicare billing concerns), the intake paralegal will make the case acceptance decision once financial and citizenship eligibility has been determined. For all other types of cases, the Managing Attorney decides whether to accept or reject the case. For FHA cases where the intake was completed by the intake paralegal, the applicants are informed by telephone or letter, within 24 hours of the intake, whether their case is accepted or rejected. For non-FHA cases, where the intake was conducted by the St. Louis office, the applicant is informed of case acceptance within a couple of days by someone from the St. Louis intake staff.

If a conflict is presented, and it is clear that legal services cannot be provided (*e.g.*, the program has represented or is representing the applicant's spouse in a family law matter and the applicant is requesting assistance with the same matter), the intake paralegal will inform the applicant that their case cannot be accepted due to a conflict. For other cases where it is not immediately clear to the paralegal that a conflict is present, the file is given to the Managing Attorney to clear the potential conflict, or inform the applicant that their case cannot be accepted due to a conflict of interest.

The intake paralegal, office manager, and Managing Attorney are all responsible for closing cases and selecting the proper closing code. In cases with litigation, there is typically a 30-60 day waiting period to close a case in the ACMS in case the final judgment is appealed or amended. All staff members in this office assess the office's cases for timely case entry and dormancy.

St. Louis Family Court Project Office

The St. Louis Family Court Project Office conducts limited walk-in intake on an as-needed basis, and conducts the majority of its intake over the telephone. There is one (1) primary intake staff person, a paralegal, who conducts intake for all cases that are serviced by the office (*e.g.*, termination of parental rights, divorce with domestic violence alleged, child neglect, etc.), and one (1) back-up intake staff member who conducts intake when the paralegal is unavailable (the back-up intake staff member performs approximately four (4) intakes per month). The office

paralegal conducts telephone intake during the following hours: Tuesday and Thursday from 8:30 a.m. to 5:00 p.m. and Friday from 1:00 p.m. to 5:00 p.m. The paralegal conducts intake by verifying an applicant's citizenship, financial, and case-type eligibility, and inputting the eligibility information directly into the ACMS. After the intake is completed, the paralegal informs the applicant that a case acceptance decision will be made as soon as possible and communicates the case acceptance decision by phone call and/or letter.

In all situations where the conflict check reveals a potential conflict, the file is given to the Managing Attorney to review. The Managing Attorney determines how to proceed when a conflict is present; how to waive the conflict (when applicable), or whether to reject the case due to a conflict of interest.

For walk-in intake situations, where the court refers the applicant to the office and the primary intake staff person is unavailable, the office's case manager asks the applicant to provide answers to questions on a manual intake form, which is later inputted into Kemps Prime. The manual intake form contains all questions that are in the ACMS, and the questions are identical to the ones asked during the telephone intake screening. The case manager has all walk-in applicants sign certain documents (retainer, attestation, release, etc.) before the intake appointment is completed, and makes sure those documents are in the case file so the Managing Attorney can make a case acceptance decision.

For all cases, regardless of whether the case manager or the paralegal conducts the intake, the Managing Attorney makes the decision of whether to accept or reject a case once income/asset/citizenship eligibility has been determined. The paralegal informs applicants by telephone call and letter whether their case is accepted or rejected. If a case is rejected and the applicant was referred by the court, a letter is also sent to the court to let them know that the case is not being accepted so that the applicant can be referred elsewhere.

In the St. Louis Family Court Project Office, the intake paralegal runs a timeliness report on the 15th of every month as well as a "no time entry for 60 days" report once a month and gives those to the Managing Attorney for review. When a case is ready for closure, the Managing Attorney prepares a closing letter. The file is then given to the paralegal, with a completed compliance checklist that identifies the closure code, so that the case can be closed in the ACMS. The checklist is a review of all major LSC compliance requirements and requires the case handler to determine if the file is complete and whether the case is LSC-eligible. The Managing Attorney reviews the closing codes for all cases that are closed in this office. According to interviews, files are closed in the ACMS within a couple of days of receiving the completed compliance checklist.

Union Office

The Union office conducts limited walk-in intake on an as-needed basis, and conducts the majority of its intake at outreach events. There is one (1) paralegal and two (2) attorneys in this office and all three (3) perform intake screenings. The intake screenings are conducted at outreach events that are held once per month in the following Missouri counties: Washington, Warren, and Lincoln. The outreach events are advertised on the radio and in local churches and

last for approximately two (2) hours. At the events, an office staff member will attend and conduct a full intake screening using a laptop with an internet connection and provide legal advice in cases where the applicant is eligible for services (legal advice is only provided by the attorneys). If the paralegal is the person conducting the intake screening at the outreach event, she informs all applicants that she cannot provide them with legal advice and that they will be contacted by telephone and/or mail once a case acceptance decision has been made. In all situations where the conflict check reveals a potential conflict, the file is given to the Managing Attorney to review. The Managing Attorney determines how to proceed when a conflict is present, how to waive the conflict (when applicable), or whether to reject the case due to a conflict of interest.

In the Union office, regardless of whether the applicant was screened over the telephone or in person, one (1) of the two (2) attorneys in the office will determine case acceptance individually (in situations where time is of the essence) or at a case acceptance meeting. The case acceptance meetings usually take place once every two (2) weeks. After the attorneys have made a case acceptance decision, the intake staff member contacts the applicant to inform them of the decision, sends the client paperwork to complete and return to the office, and schedules an appointment for them to meet with the assigned advocate.

In the Union Office, the intake paralegal selects the closing code and closes all cases; the closure code selection is not reviewed by an attorney. Additionally, the paralegal drafts the closing letter to the client, which is signed by either the paralegal or the attorney, and uses a checklist to ensure that the case is closed properly and denote if it is LSC-eligible. The intake paralegal, and occasionally one (1) of the attorneys, prepares bi-weekly reports on open cases and cases that have not had any time entries for 60 days. These reports are reviewed by the attorneys at the case acceptance meetings that occur once every two (2) weeks.

Financial Eligibility and Case Management Program-Wide

Conflict Check: Conflicts are checked program-wide using the ACMS immediately after inputting the applicant's name and adverse party information.

Duplicate Check: At the same time the conflict check is performed, an intake staff member will examine all cases under the applicant's name to ensure that a duplicate case is not being created.

Rejected Applicants: If an applicant is rejected for any reason (*e.g.*, conflict of interest, duplicate, over-income, outside of priorities, etc.), the intake screening is stopped and the applicant is informed that their case cannot be accepted. Whenever possible, the applicant is referred to an appropriate agency that may be able to address their concerns.

Income Screening: Interviews revealed that income inquiry and recordation are conducted in a manner consistent with LSC regulations. Applicants are asked to provide information about all sources of income including, but not limited to, disability, child support payments, alimony, employment, and rental income.

Reasonable Inquiry Regarding Income Prospects: Recipients are required to make inquiry into each applicant's income prospects, pursuant to 45 CFR § 1611.7(a). The ACMS contains a required field specific to this inquiry. All intake staff interviewed expressed an understanding that all applicants' prospective income should be checked when determining financial eligibility.

Authorized Exceptions to Income Ceiling: The LSC regulations, at 45 CFR § 1611.3(a), require a program's Board of Directors to adopt financial eligibility policies ("FEP") for individuals and groups and to review the policies once every three (3) years. The most recent LSEM Board approval of these policies was in a document entitled "Procedures and Guidelines for Intake and Determination of Client Eligibility," which was approved on June 12, 2012. LSEM's FEP allows for the following factors to be considered when an applicant's income is between 125% and 200% of the Federal Poverty Guidelines ("FPG"): whether the applicant is seeking legal assistance to secure and/or maintain government benefits for the poor and/or mentally or physically impaired; whether the applicant's income is primarily committed to nursing home expenses; current income prospects; medical expenses; fixed debts; child care expenses; work-related transportation expenses, expenses associated with age or physical infirmity; and/or other factors related to the applicant's ability to afford legal assistance.

LSEM requires all intake staff to complete an Over-Income/Over-Asset Memorandum if the applicant's income is above 125% but below 200% of the FPG. In this Memorandum, as well as in the intake eligibility screening in the ACMS, if factors are present, the applicant's income is spent down and recalculated in order to render the applicant eligible for services. For instance, if an applicant's income is 150% of the FPG, the intake worker will obtain information regarding the applicant's current expenses (*e.g.*, rent, mortgage, tax payments, childcare, work-related transportation, etc.) and input the monthly amounts paid by the applicant for the expenses. After inputting all eligible expenses, the intake worker will recalculate the applicant's income and will accept for services if the applicant's income is at or below 125% of the FPG. In such cases, the applicant's original income, as well as the recalculated income, is maintained in the ACMS and also recorded on the Over-Income/Over-Asset Memorandum.

The majority of intake staff interviewed indicated that an applicant will be considered eligible if their income is under 125% of the FPG. Additionally, most intake staff interviewed expressed an understanding that, pursuant to 45 CFR § 1611.5(a)(4), if an applicant's income is between 125% and 200% of the FPG, their income can be spent down using the above-referenced over-income factors, which may render the applicant eligible for services. There was one (1) intake staff member who expressed the misunderstanding that if an applicant's income exceeded 125% of the FPG, then that applicant would be ineligible for services. This staff member was also not aware that over-income factors could be utilized to spend down an applicant's income, which may render them financially eligible for services.

Asset Screening/Authorized Exceptions to Asset Ceiling: Pursuant to LSEM's eligibility policy, the total combined asset ceiling for applicants applying for legal assistance in 2014 is \$7,500.00. If an applicant's assets exceed the asset ceiling, LSEM's FEP allows for the ceiling to be waived by the Executive Director's ("ED") approval of the above-referenced over-asset form. If the asset ceiling is waived, then the reason for the waiver is documented and included in the client's file. All intake staff interviewed expressed an understanding that an applicant's assets must not

exceed \$7,500.00 in order to be deemed eligible for services. They also indicated that the asset ceiling may be waived by the ED if an applicant's assets exceed the asset ceiling.

Financial Eligibility Determination of an Applicant who is a Victim of Domestic Violence:

Recipients are required to specify in their financial eligibility policies that during the financial eligibility determination of an applicant who is a victim of domestic violence, only the assets and income of the applicant and household members shall be considered. Further, the income and assets of the alleged perpetrator of the domestic violence and any income or assets jointly held by the applicant with the alleged perpetrator or assets jointly held with other members of the household and the alleged shall not be considered. *See* 45 CFR § 1611.3(e). LSEM has adopted such policies in its FEP. Interviews with intake staff members indicated that staff are aware of LSEM's policy, and that applicants are being appropriately screened.

Government Benefits Exemption: In accordance with 45 CFR §§ 1611.3(f) and 1611.4(c), a recipient's governing body is permitted to determine an applicant to be financially eligible without making an independent determination of income or assets, if the applicant's income is derived solely from a governmental program for low-income individuals or families. LSEM's FEP does not contain such an exemption.

Group Clients: LSEM's FEP permits LSC-funded assistance to groups in accordance with 45 CFR § 1611.6. No group cases were identified within the review period and staff interviews indicated that no staff member was aware of a group case intake screening.

Citizenship and Eligible Alien Status Screening: The majority of intake staff interviewed demonstrated an understanding of the citizenship and alien eligibility documentation requirements of 45 CFR Part 1626 including, but not limited to, those requirements relating to the Kennedy Amendment, T-Visa, and U-Visa cases. However, there were two (2) intake staff members who were not aware that an applicant may not have to attest to citizenship/alien eligibility in cases where domestic violence is alleged, pursuant to 45 CFR § 1626.3. Additionally, there were three (3) intake staff workers who were unaware of how to verify an applicant's alien eligibility. In most cases, an applicant's citizenship status is initially assessed and recorded in the ACMS by the intake staff. Citizen applicants who are screened by telephone are asked to verify their citizenship/alien eligibility status over the phone; if their case is advanced to one involving in-person contact between the client and a member of LSEM's staff, then the client is asked to sign and return an attestation, or verify their alien eligibility, prior to meeting with a member of LSEM's staff. Non-citizen applicants are asked to provide documentation of eligible alien status, which is reviewed by a member of the intake staff.

There is a form in use in the St. Louis office that has the citizenship "yes" checkbox pre-checked for applicants to sign. According to intake interviews, this form is provided to applicants when the intake screener believes that the applicant is a citizen of the United States due to their ability to speak English. This is not consistent with the requirements of 45 CFR § 1626.6, which states that "A recipient shall not consider factors such as a person's accent, limited English-speaking ability, appearance, race, or national origin as a reason to doubt that the person is a citizen." LSEM indicated during the visit that they would cease using the pre-completed form as part of its intake screening.

Case Acceptance: Except in Hannibal, St. Louis General Intake, and LSEM's Immigration office, intake staff does not provide assistance until the case has been accepted by the Managing Attorney. In the Hannibal office, the intake paralegal may accept a case and provide legal assistance if the case is one that the paralegal has been authorized to accept and provide services for under the Managing Attorney's supervision. In the St. Louis General Intake, intake paralegals accept all cases for advice and counsel, at a minimum, when the applicant is deemed eligible for services; the responsible attorney decides whether to provide extended representation. In the Immigration office, the intake specialist/Accredited Representative is authorized to make the case acceptance decision, along with the Managing Attorney.

Intake interviews revealed that intake paralegals provide clients whose cases have been accepted with several forms to complete, sign, and return to the office, including a retainer agreement.

Retainer Agreements: Pursuant to 45 CFR § 1611.9, when a recipient provides a client with extended services, they shall ensure that a retainer agreement is executed when the representation begins, or as soon thereafter as possible. The retainer agreement shall include, at a minimum, "a statement identifying the legal problem for which representation is sought, and the nature of legal services to be provided." *See Id.* According to intake interviews in the Union, St. Louis Family Court Project, and Hannibal offices, retainer agreements are completed by the responsible advocate and, thereafter, are provided to the client to be signed and dated.

Retainer agreements are not completed or signed by an attorney before they are given to clients to execute in some offices. As such, many retainers may be returned where the client has inputted the scope and/or subject matter into the retainer. The process of providing clients with blank retainer agreements to sign and return should be discontinued, as it increases the likelihood that the scope or subject matter of the retainer agreement will be insufficient, and that the agreement will not reflect the responsible advocate's intentions at the time it is signed by the client.

Closing Codes: In most instances, the responsible advocate selects the closing code and gives the file to the support staff to close the case in the ACMS; additionally, some advocates close their own case files in ACMS. Interviews indicated that cases are typically closed by the support staff within two (2) weeks of receiving the case file from the responsible advocate. Interviews further revealed that all support staff, as well as attorneys, routinely monitor the cases to ensure that case notes are timely entered, duplicate cases are not being created, and that cases are timely closed.

Grievance Procedure: All applicants are advised of their grievance rights when they are denied legal assistance. There is a pamphlet, which is provided to applicants and clients, which discusses LSEM's grievance process and provides contact information to file a grievance.

Required Corrective Action

The DR instructed LSEM to take corrective action to ensure that all walk-in applicants execute proper citizenship attestations, and to cease using the form with the “yes” pre-checked for United States citizen.

In its response to the DR, LSEM stated that it will ensure that all walk-in clients comply with screening and documentation requirements and execute proper citizenship attestations. LSEM further stated that it has ceased using the form with “yes” pre-checked for United States citizenship.

Based on a review of LSEM’s response to this Finding, RCA No. 1 is closed.

Recommendations

The DR recommended that LSEM provide intake staff with training regarding proper application of over-income factors, pursuant to 45 CFR § 1611.5 and LSEM’s FEP.

In its response to the DR, LSEM stated that it will give additional training to intake staff on the proper application of over-income factors.

The DR recommended that LSEM provide intake staff with training regarding 45 CFR Part 1626 and the methods to be utilized to verify an applicant’s eligible alien status. The DR also recommended that intake staff be trained on the effects of the requirements relating to the Kennedy Amendment, T-Visa, and U-Visa cases, and the removal of the requirement for an applicant to demonstrate citizenship/alien eligibility in cases where domestic violence is alleged so long as the prerequisites of 45 CFR § 1626.3(d) are met.

In its response to the DR, LSEM stated that staff has been provided with additional training regarding methods to verify an applicant’s eligible alien status, including when domestic violence is alleged and will provide this training again.

The DR recommended that LSEM cease the practice of providing clients with blank retainer agreements.

In its response to the DR, LSEM stated that it will cease giving clients blank retainer agreements.

Finding 3: LSEM maintains the income eligibility documentation required by 45 CFR Part 1611, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions. However, a revision to its financial eligibility policy is warranted to demonstrate compliance with this regulation.

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* CSR Handbook (2008 Ed., as amended 2011), § 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 (2008 Ed., as amended 2011), § 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 Financial Poverty Guidelines ("FPG") and the recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5(a)(3) and 45 CFR § 1611.5(a)(4), the recipient shall keep such records as may be necessary to inform LSC of the specific facts and factors relied on to make such a determination. *See* 45 CFR § 1611.5(b) and CSR Handbook (2008 Ed., as amended 2011), § 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 (2008 Ed., as amended 2011), § 4.3.

LSEM's revised FEP was adopted by its Board on June 12, 2012. LSEM's Financial Standards indicate that financial eligibility will be determined pursuant to the income guidelines most recently promulgated by LSC.

LSEM provided its FEP in advance of the review. In compliance with 45 CFR §§ 1611.3(c)(1), 1611.3(d)(1), and 1611.3(e), the policy sets forth the eligibility requirements to receive LSC funded assistance. However, the policy's definition of income and examples does not match the regulation's list and examples, per 45 CFR § 1611.2(i) (*e.g.*, policy indicates income from self-employment is not income). The over-income factors listed in Section III. B, of the FEP, names "medical expenses and nursing home" as an over-income factor, but the regulation lists it as "unreimbursed medical expenses and medical insurance premiums." *See* 45 CFR § 1611.5(a)(4)(ii). This deviation from the regulation is acceptable if LSEM only intends to use nursing home expenses as an over-income factor pursuant to 45 CFR § 1611.5(a)(2) and does not want to consider unreimbursed medical expenses. Sections II. A and B of the policy indicates that an over-income applicant (with an income less than 200% of the FPG) can be served if their income is primarily committed to medical or nursing home expenses. In order to ensure compliance with the regulation, it should read that an applicant is eligible if "the applicant's income is primarily committed to medical or nursing home expenses and that, by excluding such portion of income committed to medical or nursing home expenses, the applicant would otherwise be financially eligible for services." *See* 45 CFR § 1611.5(a)(2).

³ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

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 was funded by non-LSC programs or had authorized exceptions applied pursuant to 45 CFR § 1611.5(a)(3) and 45 CFR § 1611.5(a)(4).

All cases reviewed contained income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income does not exceed 125 % of the FPG.

LSEM's group eligibility policy complies with the requirements of 45 CFR Part 1611.

Required Corrective Action

The DR instructed LSEM to take corrective action to amend its FEP to comply with 45 CFR Part 1611, as indicated above. At the beginning of the visit, LSEM was made aware of this matter and began to take steps to address this corrective action by modifying its policy.

In its December 2014 submission, LSEM provided LSC with evidence of their amended FEP policy. The policy was reviewed by OCE and found to comply with 45 CFR Part 1611. Based on a review of LSEM's response to this Finding, RCA No. 2 is closed.

Finding 4: LSEM maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-approved asset eligibility policies.⁴ *See* CSR Handbook (2008 Ed., as amended 2011), § 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 ED. The revised version allows the ED or his/her designee to waive the ceilings in such circumstances. *See* 45 CFR § 1611.6(e) in prior version of the regulation and

⁴ A numerical total value must be recorded, even if it is zero or below the recipient's guidelines. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4.

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 policy approved by the LSEM Board of Directors on June 12, 2012, establishes the asset ceiling at \$7,500. Exempt from consideration are the applicant's principal residence; no more than two vehicles used in transportation; work-related and/or business assets used in producing income; and assets exempt from attachment under state and federal law. The policy indicates that assets which are exempt from attachment under state and federal law are exempt from the asset calculation but does not provide a list or examples.

All cases reviewed contained asset screening and documentation. Accordingly, LSEM is in compliance with the asset eligibility documentation required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

Recommendation

The DR recommended that, to ensure that intake staff knows how to exclude assets which are exempt from attachment, the policy should list them and the authority (*e.g.*, a bankruptcy code authorizing exemption). Management is reminded to periodically check and update the list when the exemption regulations change.

LSEM has indicated that it provided guidance and authority to staff regarding assets which are exempt from attachment.

Finding 5: LSEM is in compliance with the requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens). However, LSEM's written policy must be modified to comply with 45 CFR § 1626.12.

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 (2008 Ed., as amended 2011), § 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 (2008 Ed., as amended 2011), § 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.⁵ Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient's CSR data submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, "Violence Against Women Act 2006 Amendment" (February 21, 2006), which instructs recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual assault or trafficking, or who qualify for a "U" visa. LSC recipients are now allowed to include these cases in their CSRs.

All cases reviewed evidenced that the client was screened for citizenship/alien eligibility and all cases appeared to contain the requisite 45 CFR Part 1626 documentation. However, some citizenship attestations were not dated pursuant to the CSR Handbook (2008 Ed., as amended 2011), § 5.5.

LSEM has a written policy as required by 45 CFR § 1626.12; however, the policy does not fully incorporate the recent changes to 45 CFR § 1626.4. Additionally, the policy does not authorize representation of special eligible aliens enumerated in 45 CFR § 1626.10(a) through (d) and 45 CFR § 1626.11. Lastly, the policy should include a copy of Program Letter 05-2 and 45 CFR § 1626.10(e), as it is referenced as part of LSEM's instructions on how to verify eligibility.

Required Corrective Action

The DR instructed LSEM to take corrective action to add the sections noted above to their 45 CFR § 1626.12 policy. At the beginning of the visit, LSEM was made aware of this matter and began to take steps to address this corrective action during the visit by modifying this policy.

In its December 2014 submission, LSEM provided LSC with evidence of its amended 45 CFR § 1626.12 policy, including language from Program Letter 05-2. The policy was reviewed by OCE and found to be in compliance with this regulation. Based on a review of LSEM's response to this Finding, RCA No. 3 is closed.

Recommendation

The DR recommended that, pursuant to CSR Handbook (2008 Ed., as amended 2011), § 5.5, LSEM review with staff the requirement that a citizenship attestation should be dated.

In its response to the DR, LSEM did not comment on this recommendation.

Finding 6: LSEM is in substantial compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).

Pursuant to 45 CFR § 1611.9, recipients are required to execute a retainer agreement with each client who receives extended legal services from the recipient. The retainer agreement must be in

⁵ See Kennedy Amendment at 45 CFR § 1626.4.

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.⁶ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

During the on-site review, extended service cases were sampled to assess whether LSEM was executing retainer agreements in accordance with 45 CFR § 1611.9.

Case files reviewed indicated that LSEM is in substantial compliance with the requirements of 45 CFR § 1611.9. Review of sampled cases evidenced that LSEM has strong practices to obtain a client retainer at the beginning of cases. However, case sampling identified a few case files in which the scope of the representation was inadequate. For example, several immigration cases reviewed contained scopes referencing the number of the US Citizenship and Immigration Services form to be completed. For clarity, and for the client's and LSEM's mutual protection, scopes should be written out in easy-to-understand language. *See* Union Staff Closed 2013 Case No. 12E-4182613 (This case was properly closed under closing code "I(a)," uncontested court decision, but the retainer agreement in the case file did not contain an adequate detail of the scope of representation; the scope was identified as "guardianship.") *See also*, Union Staff Closed 2013 Case No. 12E-4182420 (This case was properly closed under closing code "G," negotiated settlement with litigation, but the retainer agreement in the case file did not contain an adequate detail of the scope of representation; the scope was identified as "paternity.")

As discussed above, some offices provide the clients with blank retainer agreements, requiring them to complete the scope of representation to be provided.

Recommendation

The DR recommended that LSEM develop a procedural review of client retainer agreements to make certain that they properly match the scope of the representation provided to the client and that the LSEM attorney completes the scope in terms of services to be provided to the client, rather than allowing the client to complete that section of the form.

In its response to the DR, LSEM stated that "staff will be retrained to have the description in the retainer of the scope of representation match the actual scope of representation provided and the attorney will fill in the scope in terms of service to the client."

⁶ However, a retainer is more than a regulatory requirement. It is also a key document clarifying the expectations and obligations of both client and program, thus assisting in a recipient's risk management.

Finding 7: Sample cases, interviews, and a review of LSEM’s policies evidenced substantial compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts). However, LSEM’s written policy must be modified to comply with 45 CFR Part 1636.

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

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

All sampled files that required a statement of facts appeared to contain a document that met the requirements of this regulation. In addition, all complaints reviewed were verified.

The LSEM policy, in effect at the time of the review, required modification in order to be in compliance with LSC regulations. LSEM’s 45 CFR Part 1636 policy did not indicate when a separate notice to the defendant is permissible pursuant to 45 CFR § 1636.2(a)(1) (*i.e.*, when naming the plaintiff would be contrary to law or court rules). The policy did not indicate that the requirement to name the plaintiff is removed if the court has found, after notice and an opportunity for a hearing, probable serious harm by such disclosure. *See* 45 CFR § 1636.2(a)(1). The policy only indicated that the statement is not required if the court has entered an order protecting the plaintiff from being disclosed.

Required Corrective Action

The DR instructed LSEM to take corrective action to add the required language to its written policy, as indicated above. At the beginning of the visit, LSEM was made aware of this matter and began to take steps to address this corrective action by modifying this policy.

In its December 2014 submission, LSEM provided LSC with evidence of its amended 45 CFR Part 1636 policy. The policy was reviewed and found to be in compliance with this regulation. Based on a review of LSEM’s response to this Finding, RCA No.4 is closed.

Finding 8: Sampled cases indicated that LSEM is in compliance with the requirements of 45 CFR §§ 1620.3(a) and 1620.6 (Priorities in the use of resources). However, LSEM’s written policy must be modified to comply with 45 CFR § 1620.4.

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.

LSC regulations further requires that staff who handle cases or matters, or make case acceptance decisions, sign written agreements indicating they have read and are familiar with the recipient's priorities, have read and are familiar with the definition of an emergency situation and procedures for dealing with an emergency, and will not undertake any case or matter for the recipient that is not a priority or an emergency.

Prior to the visit, OCE was provided a list of LSEM's priorities. LSEM identifies the following types of cases as within their priorities: maintaining and enhancing economic stability for families and individuals, preservation of housing and related housing needs for families and groups, and protecting the safety, stability, and well-being of families and individuals.

All sampled cases reviewed were within LSEM's priorities in compliance with 45 CFR Part 1620. Interviews with the Executive Director ("ED") also evidenced that LSEM is in compliance with the requirements of 45 CFR § 1620.6.

The LSEM priority policy in effect at the time of review did not incorporate all of the requirements of 45 CFR § 1620.6 (signed written agreement). Additionally, the 45 CFR Part 1620 form did not provide definition of emergency case, as required by 45 CFR § 1620.6(b), and the policy did not incorporate the reporting requirements outlined in 45 CFR §§ 1620.7(a) and(b) (quarterly reporting to the Board and annual reporting of emergency cases to LSC).

Required Corrective Action

The DR instructed LSEM to take corrective action to revise its policy to comply with 45 CFR Part 1620, as specified above. At the beginning of the visit, LSEM was made aware of this matter and began to take steps to address this corrective action during the visit by modifying this policy.

In its December 2014 submission, LSEM provided LSC with evidence of its amended 45 CFR Part 1620 policy. The policy was reviewed and found to be in compliance with this regulation. Based on a review of LSEM's response to this Finding, RCA No.5 is closed.

Finding 9: LSEM is in substantial compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).

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

If the applicant's legal problem is outside the recipient's priorities, or if the recipient has not provided any type of legal assistance, it should not report the activity in its CSR. For example, recipients may not report the mere referral of an eligible client as a case when the referral is the only form of assistance that the applicant receives from the recipient. *See* CSR Handbook (2008 Ed., as amended 2011), § 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 (2008 Ed., as amended 2011), § 5.6.

The review of sampled cases evidenced that LSEM is in substantial compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 5.6. However, there were two (2) exceptions. *See* Union Staff Closed 2012 Case No.12E-1177468. (The ACMS indicates that this case was opened August 27, 2012 and closed August 29, 2012, with closing code "A," counsel and advice. According to the case notes, this was a custody dispute. It appears from the case notes, that the client was sent information regarding custody. At the time of case review, the case file did not appear to contain a description of the legal assistance/advice provided that would support an "A" closing code.) *See also* Union Staff Closed 2013 Case No. 13E-1183827. (The ACMS indicates that this case was opened on January 25, 2013 and closed on March 5, 2013, with closing code "A," counsel and advice. However, the file did not contain evidence of legal assistance provided.)

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 10: LSEM's application of the CSR case closure categories is generally consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011), however, there were some exceptions.

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 (2008 Ed., as amended 2011), § 6.1.

The review assessed whether LSEM's application of the CSR case closure categories is consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011). The sampled cases contained numerous examples of correctly used case closing categories, including more complex case closure categories. LSEM's application of the CSR case closure categories is generally consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011). However, as noted below, there were some exceptions, especially as related to the use of closing code "I(a)," uncontested court decision.

See Hannibal PAI Closed 2013 Case No. 12E-1169253. (The ACMS indicates that this case was opened March 20, 2012 and closed October 25, 2013, with closing code “I(a),” uncontested court decision. Case review indicated that LSEM represented the father in a custody issue involving a minor child. According to the case notes, the matter was resolved through a stipulated agreement. Therefore, based on the case notes, closing code “G,” negotiated settlement with litigation would be the more accurate closing code as closing code “I(a)” should be reserved for cases where a client was represented in a court proceeding that resulted in a case dispositive decision made by the court in which there was no adverse party or the adverse party did not contest the case.) *See also* Hannibal PAI Closed 2013 Case No. 13E-1184267. (The ACMS indicates that this case was opened February 5, 2013 and closed October 24, 2013, with closing code “I(a),” uncontested court decision. Case review indicated that this was a modification of child support/visitation matter in which LSEM filed a counterclaim on behalf of its client. According to the case notes, there was a hearing on or about June 27, 2013, in which the Court reached a ruling. Therefore, based on the case notes, closing code “I(b),” contested court decision would be the more accurate closing code as closing code “I(a)” should be reserved for cases where a client was represented in a court proceeding that resulted in a case dispositive decision made by the court in which there was no adverse party or the adverse party did not contest the case.) *See also* Hannibal PAI Closed 2013 Case No. 12E-1179383. (The ACMS indicates that this case was opened October 8, 2012 and closed December 13, 2013, with closing code “I(a),” uncontested court decision. Case review indicated that this was a child custody matter in which there was a trial and apparently the parties reached an agreement that was memorialized in a parenting plan. The case notes also indicated that LSEM had filed a motion to withdraw from the case. At the time of case review, it was not clear, based on the case notes which closing code would be the most accurate; closing code “G,” negotiated settlement with litigation or closing code “I(b),” contested court decision, or closing code “L,” extensive service. However, based on the case notes, closing code “I(a)” seems to be the least accurate as there was an adverse party, and there was a trial, in which it is assumed that LSEM contested the case.) *See also* Hannibal PAI Closed 2013 Case No. 11E-1154796. (The ACMS indicates that this case was opened June 1, 2011 and closed October 25, 2013, with closing code “I(a),” uncontested court decision. Case review indicated that this was a child custody and support matter in which LSEM represented the respondent. According to the court Order in the file, the parties reached an agreement. Therefore, based on the case notes, closing code “G,” negotiated settlement with litigation would be the more accurate closing code as closing code “I(a)” should be reserved for cases where a client was represented in a court proceeding that resulted in a case dispositive decision made by the court in which there was no adverse party or the adverse party did not contest the case.) *See also* Hannibal PAI Closed 2013 Case No. 12E-1172504. (The ACMS indicates that this case was opened June 1, 2012 and closed October 1, 2013, with closing code “I(a),” uncontested court decision. Case review indicated that this was a child custody matter. According to the court Order in the file, the parties reached an agreement which was adopted by the Court. Therefore, based on the case notes, closing code “G,” negotiated settlement with litigation would be the more accurate closing code as closing code “I(a)” should be reserved for cases where a client was represented in a court proceeding that resulted in a case dispositive decision made by the court in which there was no adverse party or the adverse party did not contest the case.) *See also* Hannibal PAI Closed 2013 Case No. 12E-1176996. (The ACMS indicates that this case was opened August 15, 2012 and closed November 14, 2013, with closing code “I(a),” uncontested court decision. Case review indicated that this was a divorce matter in

which LSEM drafted and file the petition for divorce. The case file contained a marital stipulated agreement and settlement agreement. Therefore, based on the case notes, closing code “G,” negotiated settlement with litigation would be the more accurate closing code as closing code “I(a)” should be reserved for cases where a client was represented in a court proceeding that resulted in a case dispositive decision made by the court in which there was no adverse party or the adverse party did not contest the case.) *See also* Hannibal PAI Closed 2013 Case No.11E-1158506. (The ACMS indicates that this case was opened August 4, 2011 and closed December 26, 2013, with closing code “I(a),” uncontested court decision. Case review indicated that this was a child custody matter. According to the case notes, a consent judgment was entered on or about August 2, 2012. Therefore, based on the case notes, closing code “G,” negotiated settlement with litigation would be the more accurate closing code as closing code “I(a)” should be reserved for cases where a client was represented in a court proceeding that resulted in a case dispositive decision made by the court in which there was no adverse party or the adverse party did not contest the case.) *See also* Hannibal PAI Closed 2012 Case No. 11E-2150493. (The ACMS indicates that this case was opened March 25, 2011 and closed December 10, 2012, with closing code “I(a),” uncontested court decision. Case review indicated that this was a divorce matter. According to the case file, the parties signed a marriage settlement agreement. Therefore, based on the case notes, closing code “G,” negotiated settlement with litigation would be the more accurate closing code as closing code “I(a)” should be reserved for cases where a client was represented in a court proceeding that resulted in a case dispositive decision made by the court in which there was no adverse party or the adverse party did not contest the case.) *See also* Clayton Staff Closed 2013 Case No.12E-3166698. (The ACMS indicates that this case was opened January 10, 2012 and closed November 13, 2013, with closing code “I(b),” contested court decision. Case review indicated that this was a termination of parental rights case. According to the case file, LSEM’s client eventually consented to the termination. Therefore, based on the case notes, closing code “G,” negotiated settlement with litigation would be the more accurate closing code as closing code “I(b)” should be reserved for cases where there is an adverse party and that party contests the case.) *See also* Clayton Staff Closed 2012 Case No. 12E-3176107. (The ACMS indicates that this case was opened July 27, 2012 and closed October 23, 2012, with closing code “G,” negotiated settlement with litigation. Case review indicated that this was an educational neglect abuse case that was subsequently dismissed by the Court. Therefore, based on the case notes, closing code “L,” extensive service would be the more accurate closing code as closing code “G” should be reserved for cases in which the program negotiated and reached an actual settlement on behalf of a client while a court or formal administrative action is pending.) *See also* Clayton Staff Closed 2012 Case No.11E-3159088. (The ACMS indicates that this case was opened August 15, 2011 and closed October 23, 2012, with closing code “I(a),” uncontested court decision. Case review indicated that this was a paternity action in which LSEM drafted and filed the petition for paternity. Subsequently, the client re-united with the adverse party, so the case was dismissed by the Court. Therefore, based on the case notes, closing code “L,” extensive service would be the more accurate closing code as closing code “I(a)” should be reserved for cases where a client was represented in a court proceeding that resulted in a case dispositive decision made by the court in which there was no adverse party or the adverse party did not contest the case.) *See also* Union Staff Closed 2012 Case No.11E-1163862. (The ACMS indicates that this case was opened November 7, 2011 and closed January 9, 2012, with closing code “I(a),” uncontested court decision. Case review indicated that this was a paternity action in which LSEM entered its appearance in the case on

behalf of the respondent. According to the case notes, a motion to withdraw was filed by the petitioner and granted by the court. Therefore, based on the case notes, closing code “L,” extensive service would be the more accurate closing code as closing code “I(a)” should be reserved for cases where a client was represented in a court proceeding that resulted in a case dispositive decision made by the court in which there was no adverse party or the adverse party did not contest the case.)

Recommendation

The DR recommended that LSEM management periodically review closing codes to ensure that the closure category best describes the level of service provided. It was also recommended that LSEM provide training or other guidance to staff on the correct application of LSC closing codes.

In its response to the DR, LSEM stated that it “will conduct a staff training to review the various closing codes so that the best category is chosen and to review the application of the correct LSC closing codes.” Additional comments to the DR stated that LSEM “conducts refresher training on proper procedures in closing cases, including closing codes in the last quarter of each year, and that it reviews with staff the most common errors found during the annual self-inspection of cases.”

Finding 11: LSEM is in compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely closing and dormant cases).

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 or limited action (CSR Categories A and B), should be reported as having been closed in the grant year in which the case was opened. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a).⁷ There is, however, an exception for limited service cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a). All other cases (CSR Categories F through L, 2008 CSR Handbook) should be reported as having been closed in the grant 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 (2008 Ed., as amended 2011), § 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).

⁷ The time limitation of the 2001 Handbook that a brief service case should be closed “as a result of an action taken at or within a few days or weeks of intake” has been eliminated. However, cases closed as limited action are subject to the time limitation on case closure found in CSR Handbook (2008 Ed., as amended 2011), § 3.3(a) this category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions with other parties. More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Closure Category “L” (Extensive Service).

The review assessed compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely closing and dormant cases) and determined that LSEM is in compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.3. There were no dormant cases noted.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 12: LSEM is in compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 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 (2008 Ed., as amended 2011), § 3.2.

When a recipient provides more than one (1) 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 (2008 Ed., as amended 2011), § 6.2.

When a recipient provides assistance more than once within the same reporting period to the same client who has returned with essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient is instructed to report the repeated instances of assistance as a single case. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.3. Recipients are further instructed that related legal problems presented by the same client are to be reported as a single case. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.4.

Case files sampled revealed that LSEM is in compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.2, as no duplicate case files were noted.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 13: Review of the timekeeping records and interviews with full-time attorneys evidenced that LSEM is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law). However, LSEM's written policy must be modified to comply with 45 CFR Part 1604.

This part is intended to provide guidance to recipients in adopting written policies relating to the outside practice of law by recipients' full-time attorneys. Under the standards set forth in 45 CFR Part 1604, recipients are authorized, but not required, to permit attorneys, to the extent that such

activities do not hinder fulfillment of their overriding responsibility to serve those eligible for assistance under the Act, to engage in pro bono legal assistance and comply with the reasonable demands made upon them as members of the Bar and as officers of the Court.

Interviews with management and staff members confirmed that LSEM is not involved in any unauthorized outside practice of law and is in compliance with the requirements of 45 CFR Part 1604. Outside practice on three (3) occasions in 2012 and 2013 was approved by the ED, which involved LSEM attorneys representing family members on traffic matters. Time used in each representation was personal, and did not involve the use of LSEM's resources. The ED indicated that he had verbal discussions with each attorney who sought his approval to engage in the outside practice of law, laying out the restrictions that govern such activities. However, none of those verbal stipulated restrictions was documented and it is not clear how the ED administers oversight.

The LSEM policy on the outside practice of law was found to be inadequate and outdated. It was last revised in January of 2004 and lacked two (2) basic provisions: leave time for those attorneys who cannot use non-work hours to engage in the outside practice of law; and the accounting for de minimis LSEM resources whenever they are used while engaging in the outside practice of law.

Required Corrective Action

The DR instructed LSEM to take corrective action to update their 45 CFR Part 1604 policy as outlined above. The OCE team provided sample language of a well written 1604 policy to LSEM management. LSEM began to take steps to address this corrective action during the visit by modifying this policy.

In its response to the DR, LSEM stated that it will take "steps to revise its policy regarding 45 CFR 1604 (Outside Practice of Law) to comply with 45 CFR 1604.3, and will send a draft to LSC for its review."

This corrective action shall remain open until such time as the amended policy is received and reviewed by LSC. The policy should be submitted within 30 days of LSEM's receipt of this Final Report.

Finding 14: A limited fiscal and sampled case review, as well as interviews with members of management and staff, 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.

The limited review of accounting records, including the chart of accounts, 990 tax returns for 2012 and 2013, and various general ledger expense accounts, as well as interviews with management disclosed that LSEM does not appear to have expended any grant funds, or used personnel or equipment in prohibited political activities in violation of 45 CFR § 1608.3(b). A search of on-line news articles pertaining to LSEM were reviewed for relationships with political activities or entities and none were found.

In discussions with the ED, it was confirmed that LSEM has not been involved in any activities prohibited by 45 CFR Part 1608. A review of sampled cases disclosed no evidence that staff members, while engaged in legal assistance activities supported under the LSC Act, engaged in any political activity, provided voters with transportation to the polls, or provided similar assistance in connection with an election or voter registration activity. As such, it appears that LSEM is in compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 15: Review of the recipient's sampled cases, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases), and no fee-generating cases were noted. However, LSEM's written policy needs to be modified to comport with 45 CFR Part 1609.

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 (2) private attorneys; neither the referral service nor two (2) 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 (1) 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).

In light of recent regulatory changes, LSC has prescribed certain specific requirements for fee-generating cases. *See* Program Letters 09-3 (December 17, 2009) and 10-1 (February 18, 2010).

LSC has determined that it will not take enforcement action against any recipient that filed a claim for, or collected or retained attorneys' fees during the period of December 16, 2009 through March 15, 2010. Enforcement activities related to claims for attorneys' fees filed prior to December 16, 2009, or fees collected or retained prior to December 16, 2009, are no longer suspended and any violations which are found to have occurred prior to December 16, 2009 will subject the grantee to compliance and enforcement action. Additionally, the regulatory provisions regarding accounting for and use of attorneys' fees and acceptance of reimbursement from clients remain in force, and violations of those requirements, regardless of when they have occurred, will subject the grantee to compliance and enforcement action.

LSEM has a written policy governing the acceptance of fee-generating cases which was adopted February 2013. The LSEM Policy on Fee-Generating Cases is generally compliant with 45 CFR Part 1609 and Program Letter 10-1, with the exception of the requirements for reporting and recording of attorneys' fees as defined by 45 CFR § 1609.4(a), which requires that attorneys' fees be allocated to the fund in the same proportion that LSC funds were expended to support the representation. Pursuant to 45 CFR § 1609.4(a):

Attorneys' fees received by a recipient for representation supported in whole or in part with funds provided by the Corporation shall be allocated to the fund in which the recipient's LSC grant is recorded in the same proportion that the amount of Corporation funds expended bears to the total amount expended by the recipient to support the representation.

LSEM's detailed general ledger for account number 695-200-40020-1000-2, which tracks attorneys' fees, was reviewed for the years 2012, 2013, and through July 31, 2014. Also reviewed was the internal policy which was last revised in February 2013. In 2012, a total of \$51,613.00 was collected in attorneys' fees, \$54,946.00 in 2013, and \$40,147.00 through July 31, 2014. According to the Director of Finance ("DF"), all attorneys' fees are allocated to LSC, however, this procedure is not included in LSEM's policy. As noted above, the policy lacks precise language as to how the collected attorneys' fees will be accounted for, allocated, tracked and coded in an effort to give each funding source proper credit. This shortcoming was discussed with the ED and sample language for a stronger, more detailed internal policy was sent via e-mail to enable LSEM to incorporate more detailed, stronger language into their 1609 policy, accurately describing the accounting for attorneys' fees. This will also allow the process to follow the internal policy.

Required Corrective Action

The DR instructed LSEM to take corrective action and modify its fee-generating policy to comply with 45 CFR Part 1609. At the beginning of the visit, LSEM was made aware of this matter and began to take steps to address this corrective action during the visit by modifying this policy.

In its December 2014 submission, LSEM provided LSC with evidence of its amended fee-generating policy to comply with 45 CFR Part 1609. The policy was reviewed by OCE and found to be in compliance with this regulation.

Based on a review of LSEM's response to this Finding, RCA No.7 is closed.

Finding 16: A limited review of LSEM's accounting and financial records indicated compliance with 45 CFR Part 1610 in regard to the use of non-LSC funds, transfers of LSC funds and program integrity. LSEM is in compliance with 45 CFR § 1610.5 (Notification).

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 (1) 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).

Pursuant to 45 CFR § 1610.5, no recipient may accept funds of \$250 or more from any source other than the Corporation, unless the recipient provides to the source of the funds written notification of the prohibitions and conditions which apply to the funds.

LSEM's policies and procedures and review of sample fiscal activities identified no instance where the recipient had used LSC funds for any purpose prohibited by the LSC Act.

Funds received by LSEM from sources other than the Corporation are accounted for as separate and distinct receipts and disbursed in a manner pursuant to 45 CFR § 1610.9 (Accounting). LSEM uses a Microsoft Dynamics Great Plains accounting system which has the capability to provide fund based accounting, as well as cost center based accounting. Further, LSEM uses a double-entry method for recording all transactions. A trial balance is prepared monthly after all adjusting and closing entries have been posted. LSEM's chart of accounts has been developed so that non-LSC funds are accounted for as separate distinct receipts and disbursements.

Upon request, the Development Coordinator generated a list of all donations and funding from grants, corporate, foundations and other entities of at least \$250 or greater for the years 2012, 2013, and through July 15, 2014. A sample consisting of 22 written notifications was reviewed indicating LSEM's full compliance with the requirements of 45 CFR § 1610.5(a). The LSC specific language outlining the prohibitions and conditions which apply to those funds was clearly stated in the notification documentation.

The St. Louis Internship Program ("SLIP") rents several rooms from LSEM in the basement of LSEM's office building. SLIP is LSEM's tenant and is an internship program for high school students and, as such, does not present any issues with regard to 45 CFR Part 1610. LSEM utilized an average of comparable rental rates in the area to arrive at the market rate for SLIP's rent.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 17: LSEM is in compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. LSEM met their required 12.5% PAI expenditures for the years 2012 and 2013.⁸

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.

Recipients are required to develop a PAI Plan and budget. *See* 45 CFR § 1614.4(a). The annual plan shall take into consideration the legal needs of eligible clients in the geographical area, the delivery mechanisms potentially available to provide the opportunity for private attorneys to meet legal needs, and the results of consultation with significant segments of the client community, private attorneys and bar associations, including minority and women's bar associations. The recipient must document that its proposed annual Plan has been presented to all local bar associations and the Plan shall summarize their response. *See* 45 CFR §§ 1614.4(a) and (b).

Additionally, 45 CFR Part 1614 requires that recipients utilize a financial management system and procedures that document its PAI cost allocations, identify and account for separately direct

⁸ At the time of the review, 45 CFR Part 1614 was under revision. LSEM's compliance was assessed against the regulation in effect at the time of the review and all citations in this report are to that regulation. LSEM is now required to comply with the revised regulation, which went into effect in November 2014.

and indirect costs related to its PAI effort, and report separately the entire allocation of revenue and expenses relating to the PAI effort in its year-end audit.

LSEM discharges its PAI activities in a myriad of ways, with the primary component being the Volunteer Lawyers Program (“VLP”) in St. Louis and Hannibal, MO. All expenses and costs supporting VLP are counted 100% towards the PAI effort. LSEM also has a panel of reduced-fee private attorneys with a membership of roughly 40 of which 20 to 25 attorneys are consistent participants. The hourly rate for a reduced-fee private attorney is \$50. Also, participating in the PAI efforts are in-house attorneys and paralegals who charge a portion of their time along with their direct expenses to PAI. LSEM is satisfying 45 CFR § 1614.3(e)(1)(i) which requires that “all methods of allocating common costs shall be clearly documented” by reporting indirect PAI expenses as is stipulated in its Private Attorney Involvement Plan on pages 7 and 8 under “financial systems and practices.” The formula LSEM employs is total salaries divided by PAI salaries to determine the indirect PAI cost allocation.

The regulations, at 45 CFR § 1614.3(e)(2), require that the support and expenses relating to a recipient’s PAI effort must be reported separately in the recipient’s year-end audit. As required by 45 CFR § 1614.3(e)(2), LSEM’s audited financial statements (“AFS”) for the years ending December 31, 2012 and December 31, 2013, separately reported expenditures dedicated to the PAI effort. The schedules of “Support and Revenues, Expenses and Changes in Net Assets” reported a total of Private Attorney Involvement Funds of \$235,897 at the end of LSEM’s fiscal year 2013, representing 12.96% of the total basic field grant (\$1,819,733). The figures for fiscal year 2012 were \$307,057 in PAI or 16.63% of the total basic field grant of \$1,846,684.

LSEM’s PAI plan involves private attorneys in the delivery of legal assistance to eligible clients through both *pro bono* and contract services. The PAI component assists clients in 21 counties in Missouri including, but not limited to, St. Louis City, Franklin, Jefferson, Monroe, Montgomery, and Shelby. In order to meet the needs of the population it serves, LSEM collaborates with individual volunteer attorneys, non-legal volunteers, law firms, law schools (Saint Louis University School of Law Clinic and the Washington University School of Law Clinic), and retired judges in order to provide services in the following areas of law: consumer, community and economic development, disability, education, elderly, family law, health, housing, immigration, income maintenance, public benefits, probate matters, and tax matters.

Intake Process

Reduced Fee Cases:

The intake process for a PAI case is identical to the intake process for a staff case, which was discussed herein in Finding 2 *supra*. All branch offices can refer case to LSEM’s PAI component. Once a case is deemed suitable for PAI referral, it is assigned to the PAI Coordinators, one in the St Louis office and one in the Hannibal office, who review the intake for accuracy, to ensure that all of the critical fields are complete (income, assets, citizenship eligibility, etc.), and to ensure that there is sufficient information concerning the applicant, the adverse party, and the nature of the case. The basis for referrals to the PAI component depends on the type of case and the availability of internal staff resources to handle a case in-house. Upon reviewing the intake information, the PAI Coordinators meets with the Managing Attorneys of

the unit that referred the case to determine if the case will be accepted or rejected. Once an acceptance decision has been made by the Managing Attorneys, the PAI Coordinators contact the applicant to let them know of the decision and/or obtain additional information regarding their case.

VLP Cases:

The VLP receives referrals in different ways depending on the case type: either directly from the Advocacy and Referral Team (“ART”) or from one (1) of the internal LSEM substantive units that reviewed the case and determined it had merit, but could not accept the case due to lack of resources. The VLP has two (2) full-time paralegals who each are responsible for designated case types. The paralegal assigned to the case is responsible for changing the unit and advocate in LSEM’s ACMS. In all extended service cases handled by the VLP, a Retainer Packet is obtained and kept in the client’s file. A Retainer Packet consists of a signed retainer agreement, a signed release of information, and a referral authorization. To get the Retainer Packet signed and returned (if it has not already been obtained by ART), the VLP sends the client a letter informing the client that the request for documents and information must be responded to within 14 days. The letter also contains some legal advice and information relevant to the client’s particular case. Once all of the forms and necessary information has been collected, the paralegal and VLP Managing Attorney determine which client/cases will be referred to volunteer attorneys and which will be given counsel and advice by the VLP Managing Attorney. Due to lack of internal and external resources, not every case can be referred.

Referral Process

Reduced Fee Cases:

After the decision to accept a case has been made, the PAI Coordinators mail the client several documents, including a citizenship attestation/verification of alien eligibility, for the client to sign and return to the office prior to meeting with a private attorney. Simultaneously, the PAI Coordinators select a private, contract attorney to provide services, based upon a rotating list of participating attorneys, and confirms the attorney’s willingness to provide representation in the client’s case. The participating attorneys provide legal representation in the area of family law for a reduced hourly fee. Additionally, the PAI Coordinators maintain a list of attorneys who will provide legal assistance with family law, will and estates, housing, immigration, guardianship, probate, consumer, and education. If, for whatever reason, an attorney is unavailable to assist a client, the PAI Coordinators will continue selecting attorneys, in order, from the list until an available attorney is found.

LSEM runs computer checks in the ACMS on clients and the prospective opposing parties, utilizing names, social security numbers, and addresses to ascertain if a potential conflict exists. In addition, after selecting a private attorney and confirming their availability, the PAI Coordinators provide the attorney with the intake information so that a conflict check can be done within their own firms as well. After the conflict check is done, and the client has returned the documentation sent to them, the PAI Coordinators instruct the client to call the private attorney to schedule an appointment to discuss the details of the case. At this time, the PAI Coordinators also sends the attorney the documents returned by the client, including the signed attestation/verification of eligibility, as well as a case status update form and a case closure form.

VLP Cases:

For those cases that the VLP will attempt to refer to a volunteer attorney, the paralegal will draft a thorough case summary naming all of the parties (with details so the volunteer lawyer can determine whether a conflict exists) and describing the nature of the legal assistance needed with all dates and deadlines, as well as a short narrative of the factual circumstances of the case. The paralegal will then begin efforts to find a volunteer willing to accept the case. The paralegal utilizes LSEM's Kemp's system to initiate this process, searching for lawyer who have indicated they will consider certain case types in certain venues. If no attorney accepts the case, the paralegal confers with the Managing Attorney about options, which include advising client to get a continuance to allow more time for referral efforts, or notifying the client that no attorney accepted the case and then providing counsel and advice. For those cases that will not be referred by the VLP, the paralegal and Managing Attorney determine what counsel and advice is appropriate and make a plan to provide that assistance and close the file. A hard-copy case folder of the file is kept in the paralegal's office for all open cases, and an electronic version of the file is maintained in the ACMS

The VLP closes a case once it determines that the case (as defined within the retainer agreement) has been resolved. This is determined from the volunteer attorney contacting the VLP or responding to an update letter. The paralegal determines the outcome of the case, how the outcome was reached (negotiation, trial etc.), and the number of hours the volunteer spent representing the client. If the attorney does not send a copy of the court pleadings or other dispositive documentation, the paralegal will print the docket entries for that case from Missouri CaseNet. The paralegal then completes the LSEM Case Closing Form, ensuring that the appropriate LSC-required information and coding is completed.

The most common types of cases that the VLP receives are family matters, domestic violence, housing cases, unemployment compensation appeals, immigration cases, guardianship petitions, and estate planning matters.

Oversight

LSC requires recipients to create oversight and follow-up systems and procedures that are sufficient to track the timely referral, follow-up, and disposition of PAI cases. *See* 45 CFR § 1614.3(d)(3) and CSR Handbook (2008 Ed., as amended 2011), § 10.4. LSEM has systems and practices in place to track PAI activities to ensure that PAI cases have effective oversight and follow-up which has led to a high rate of compliance. Interviews, case review, and review of PAI oversight documentation provided during the on-site review evidenced that LSEM is in compliance with 45 CFR § 1614.3(d)(3) and CSR Handbook (2008 Ed., as amended 2011), § 10.4.

Once a case has been placed within the PAI component, the case is routinely monitored by the PAI Coordinators for status updates, one (1) Coordinator in the St Louis office and one (1) in the Hannibal office. The PAI Coordinators contact the attorney within 15 days of placement to obtain the status of the case. Thereafter, the PAI Coordinators will follow up with the attorney and review the attorney's invoices, every 30 days until the case is closed. Once the case is

closed, the PAI Coordinators request that the attorney return the case closure form, if they have not already provided it. Based upon the information contained in the form, they will select the closing code and submit the case file to the Managing Attorney for review. The Managing Attorney ensures that the selected closing code is supported by case file information and gives the file back to the PAI Coordinators so that it can be closed in the ACMS.

Interviews indicated that if the client never meets with a private attorney, an advice letter is sent from the Managing Attorney of the Hannibal office and the case is closed under closing code “A,” Counsel and Advice, and coded as a staff case. However, a sample advice letter provided did not include evidence of legal advice provided to the client. Specifically, the letter referenced a pamphlet concerning the client’s legal problem, but did not contain an application of the law to the client’s specific facts, as required by CSR Handbook (2008 Ed., as amended 2011), § 10.5, therefore rendering the case un-reportable in the CSRs.

For VLP referrals, once a case has been placed with the volunteer attorney, the VLP sends the attorney an update letter, first two (2) weeks after the referral, and then every 60 days thereafter requesting updates from the attorney. The paralegal sets reminder/ticklers in ACMS calendaring system immediately upon referral of the case. If the attorney fails to respond to the case update request within a week, the paralegal will call the attorney until the updated information is obtained. Once the paralegal has obtained the full update, the paralegal can use the information provided to set a new tickler for an appropriate time (usually 60 days). The updated letters are kept in both the hard-copy file and the electronic file kept in ACMS.

The sampled PAI cases reviewed were in compliance with LSC regulations and the CSR Handbook, (2008 Ed., as amended 2011).

Required Corrective Action

The DR instructed LSEM to take corrective action to ensure that, pursuant to the documentation requirements of the CSR Handbook (2008 Ed., as amended 2011), § 10.5, every case closed as a PAI case or a staff case contains the necessary documentation to identify the legal assistance provided by a PAI attorney or staff attorney is consistent with the closing code assigned.

In its response to the DR, LSEM stated that staff will be re-train staff on “the necessary documentation to identify the legal assistance provided for both PAI and staff cases, and on the proper closing codes from the CSR Handbook.” In addition, LSEM stated “that it offers refresher training to staff on closing codes and closing procedures every year.”

Based on a review of LSEM’s response to this Finding, RCA No.8 will remain open until LSEM provides evidence, in the form of training agendas/attendance logs, that such trainings have taken place.

Finding 18: LSEM is in compliance with the requirements of 45 CFR Part 1627 which prohibits recipients from using LSC funds to pay membership fees or dues to any private or nonprofit organization and regulates the requirements for all subgrants. However, LSEM’s written policy requires modification to fully comply with 45 CFR Part 1627.

LSC has developed rules governing the transfer of LSC funds by recipients to other organizations. *See* 45 CFR § 1627.1. These rules govern subgrants, which are defined as any transfer of LSC funds from a recipient to an entity under a grant, contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient’s programmatic activities.⁹ Except that the definition does not include transfers related to contracts for services rendered directly to the recipient, *e.g.*, accounting services, general counsel, management consultants, computer services, etc., or contracts with private attorneys and law firms involving \$25,000 or less for the direct provision of legal assistance to eligible clients. *See* 45 CFR §§ 1627.2(b)(1) and (b)(2); *see also*, 48 *Federal Register* 28485 (June 2, 1983) and 48 *Federal Register* 54207 (November 30, 1983).

All subgrants must be in writing and must be approved by LSC. In requesting approval, recipients are required to disclose the terms and conditions of the subgrant and the amount of funds to be transferred. Additionally, LSC approval is required for a substantial change in the work program of a subgrant, or an increase or decrease in funding of more than 10 percent. Minor changes of work program, or changes in funding less than 10 percent do not require LSC approval, but LSC must be notified in writing. *See* 45 CFR § 1627.3(a)(1) and (b)(3).

Subgrants may not be for a period longer than one (1) year, and all funds remaining at the end of the grant period are considered part of the recipient’s fund balance. All subgrants must provide for their orderly termination or suspension, and must provide for the same oversight rights for LSC with respect to subrecipients as apply to recipients. Recipients are responsible for ensuring that subrecipients comply with LSC’s financial and audit requirements. It is also the responsibility of the recipient to ensure the proper expenditure of, accounting for, and audit of the transferred funds. *See* 45 CFR §§ 1627.3(b)(1), (b)(2), (c), and (e).

LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, except that payment of membership fees or dues mandated by a governmental organization to engage in a profession is permitted. *See* 45 CFR § 1627.4. Nor may recipients make contributions or gifts of LSC funds. *See* 45 CFR § 1627.5. Recipients must have written policies and procedures to guide staff in complying with the regulations and shall maintain records sufficient to document the recipient’s compliance. *See* 45 CFR § 1627.8.

⁹ Programmatic activities includes those that might otherwise be expected to be conducted directly by the Recipient, such as representation of eligible clients, or which provides direct support to a Recipient’s legal assistance activities or such activities as client involvement, training or state support activities. Such activities would not normally include those that are covered by a fee-for-service arrangement, such as those provided by a private law firm or attorney representing a Recipient’s clients on a contract or Judicare basis, except that any such arrangement involving more than \$25,000 is included.

The DF indicated that non-mandatory membership fees or dues are being paid with non-LSC funds. This verbal assurance was corroborated with supporting documentation. The sub-ledger “Dues and Fees - IOLTA” or account # 120-000-75200-1000-1 was obtained; sample payments were identified and their supporting documents were requested and reviewed. Between January 1, 2012 and July 31, 2014, LSEM made numerous payments to National Legal Aid & Defender Association (“NLADA”), but used exclusively IOLTA funds for those payments. Based on a limited review, LSEM is in compliance with 45 CFR § 1627.4. In addition, there were no subgrants noted.

A review of LSEM’s written policy requirements disclosed that modification is required to comply with 45 CFR Part 1627. LSEM’s policy does not: state requirements to establish a subgrant, as stated in 45 CFR § 1627.3; include the prohibition on contributions outlined in 45 CFR § 1627.5; discuss the requirements governing transfers to another LSC recipient, as provided for in 45 CFR § 1627.6; or authorize LSEM payment(s) to tax sheltered annuities pursuant to 45 CFR § 1627.7.

Required Corrective Action

The DR instructed LSEM to take corrective action to modify its policy, as outlined above, to comply with 45 CFR Part 1627. At the beginning of the visit, LSEM was made aware of this matter and began to take steps to address this corrective action during the visit by modifying this policy.

In its response to the DR, LSEM stated that it will modify its policy to comply with 45 CFR Part 1627 regarding: Section 1627.3 (the requirements to establish a subgrant); Section 1627.5 (the prohibition on contributions); Section 1627.6 (the requirements governing transfers to another LSC recipient); and Section 1627.7 (the authorization of LSEM payment(s) to tax sheltered annuities).

This corrective action shall remain open until LSC receives LSEM’s amended policy. This amended policy should be submitted to LSC within 30 days of LSEM’s receipt of this Final Report.

Finding 19: Review of the recipient’s policies, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with 45 CFR Part 1635 (Timekeeping requirement).

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

Specifically, 45 CFR § 1635.3(a) requires that all expenditures of funds for recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must satisfy the requirements of 45 CFR Part 1630. 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 four (4) attorneys and one (1) paralegal's timekeeping records for one (1) pay period each in 2012, 2013, and 2014 evidenced that time records are electronically and contemporaneously kept. The time spent on each case, matter, or supporting activity is recorded in compliance with 45 CFR §§ 1635.3(b) and (c).

During the review period, LSEM did not employ any part-time attorneys or part-time paralegals who were employed by both LSEM and an organization that engages in restricted activities. Therefore, LSEM is not required to obtain quarterly certifications pursuant to 45 CFR § 1635.3(d). Review of the recipient's policies, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with 45 CFR Part 1635.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 20: Review of sampled cases, as well as interviews with management and staff members, evidenced compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

Prior to December 16, 2009, except as otherwise provided by LSC regulations, recipients could not claim, or correct and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* 45 CFR § 1642.3.¹⁰ However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was lifted. Therefore, at its January 30, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees.

Accordingly, effective March 15, 2010 recipients may claim, collect and retain attorneys' fees for work performed, regardless of when such work was performed.

LSC further determined that it will not take enforcement action against any recipient that filed a claim for, or collected or retained attorneys' fees during the period December 16, 2009 and March 15, 2010. Claims for, collection of, or retention of attorneys' fees prior to December 16, 2009 may, however, result in enforcement action. As well, the regulatory provisions regarding accounting for and use of attorneys' fees and acceptance of reimbursement remain in force and

¹⁰ The regulations defined "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* former 45 CFR § 1642.2(a).

violation of these requirements, regardless of when they occur, may subject the recipient to compliance and enforcement action. *See* LSC Program Letters 09-3 (December 17, 2009) and 10-1 (February 18, 2010).

Review of sampled cases, as well as interviews with management and staff evidenced LSEM's compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 21: Review of sampled cases, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). However, LSEM's written policy requires modification to comply with 45 CFR § 1612.11. Special Grant Condition ("SGC") number four (4) imposed on LSEM in 2014 has been satisfied and complied with.

The purpose of 45 CFR Part 1612 is to ensure that LSC recipients and their employees do not engage in certain prohibited activities, including representation before legislative bodies or other direct lobbying activity, grassroots lobbying, participation in rulemaking, public demonstrations, advocacy training, and certain organizing activities. This part also provides guidance on when recipients may participate in public rulemaking or in efforts to encourage State or local governments to make funds available to support recipient activities, and when they may respond to requests of legislative and administrative officials.

Review of LSEM's financial records, and review of sampled cases evidenced neither any permitted nor prohibited 45 CFR Part 1612 activities for 2014. In discussions with the ED, LSEM was of the belief and understanding that they had not been involved in any impermissible 45 CFR Part 1612 activities during the period of 2011 through 2013.¹¹ In 2014, LSEM was placed under a SGC for a 45 CFR Part 1612 violation. SGC number four (4) required as follows:

On or before October 15, 2014, the Recipient shall require all staff designated by LSC to attend Training, to be provided by LSC, regarding the proper application and interpretation of 45 CFR Part 1612.

¹¹ LSC had previously determined that the preparation during business hours of an article written in 2012, by the Director of Advocacy at LSEM, which was published in the Management Information Exchange Journal (the "Article") violated LSC statutory and regulatory restrictions on lobbying, legislative, and other advocacy activities (the "LSC restrictions"). The Article recommended that legal services programs and lawyers take steps to support state legislative or executive action to expand Medicaid under the Affordable Care Act ("ACA"). The restrictions establish, with certain exclusions and exceptions, four categories of prohibited activity: (1) grassroots lobbying; (2) training; (3) organizing; and (4) attempts to influence legislation, executive activity, or administrative decisions. While the preparation of the article did not violate the first three categories of restrictions—grassroots lobbying, training, and organizing—it did constitute an impermissible "attempt to influence" state law-making and/or executive action and thus violated 45 CFR Part 1612.

On September 12, 2014, LSC conducted a training regarding the proper application and interpretation of 45 CFR Part 1612, in the St. Louis, MO office. All staff was in attendance, satisfying and complying with this SGC.

LSEM has a written policy regarding 45 CFR Part 1612 which was reviewed by OCE prior to the visit. The policy needs to be modified in order to comply with LSC regulations. The policy does not indicate that attempts to influence any provision in a legislative measure appropriating funds, or limiting the functions/authority of LSC, attempts to influence or the conduct of oversight proceedings concerning LSC are prohibited pursuant to 45 CFR §§ 1612.3(a)(3) and (4). The policy includes permissible activities that are not included in 45 CFR § 1612.5 or anywhere else in the regulation, (Section I. B(9)- “participate as a legal advisor to, or as a member of ,an organization, task force...” and Section I. C(1)(c) - “testify before or make information available to commissions, committees or advisory bodies.”) The policy also does not include the prohibition against training participants to engage in activities prohibited by the Act, other law, etc. pursuant to 45 CFR § 1612.8(a)(4). Lastly, the policy does not include the recordkeeping requirements listed in 45 CFR § 1612.10.

Required Corrective Action

The DR instructed LSEM to take corrective action to modify its written policy to comport with 45 CFR Part 1612, as outlined above. At the beginning of the visit, LSEM was made aware of this matter and began to take steps to address this corrective action by modifying this policy.

In its December 2014 submission, LSEM provided LSC with evidence of its amended 45 CFR Part 1612 policy. The policy was reviewed by OCE and found to be in compliance with this regulation.

Based on a review of LSEM’s response to this Finding, RCA No.10 is closed.

Finding 22: Review of sampled cases, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and actions collaterally attacking criminal convictions).

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

None of the sampled cases reviewed involved legal assistance with respect to a criminal proceeding or a collateral attack in a criminal conviction. Interviews with management and staff members also confirmed that LSEM is not involved in this prohibited activity.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 23: Review of the recipient’s policies and sampled cases, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with the requirements of 45 CFR Part 1617 (Class actions).

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define “class action” as a lawsuit filed as, or otherwise declared by a court of competent jurisdiction, as a class action pursuant Federal Rules of Civil Procedure, Rule 23, or comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations also define “initiating or participating in any class action” as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).¹²

LSEM’s policy on class actions comports with 45 CFR Part 1617.

None of the sampled cases reviewed involved initiation or participation in a class action. Interviews with management and staff members also confirmed that LSEM is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1617.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 24: Review of sampled cases, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with the requirements of 45 CFR Part 1632 (Redistricting).

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

None of the sampled cases reviewed involved initiation or participation in redistricting activities. Interviews with management and staff members confirmed that LSEM is not involved in this prohibited activity.

LSEM has a written policy containing the 45 CFR Part 1632 restrictions and has implemented procedures which are in compliance with the LSC regulation. Interviews and sampled cases reviewed confirmed compliance with this regulation.

¹² It does not, however, include representation of an individual seeking to withdraw or opt out of the class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate, or advise others about the terms of an order granting relief. *See* 45 CFR § 1617.2(b)(2).

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 25: Review of sampled cases, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings). However, the written policy needs modification.

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.

LSEM has a written policy governing the defense of certain eviction proceedings as required by 45 CFR Part 1633. However, the policy needs to be modified. The policy does not indicate that it is impermissible to represent someone who has been charged with possession of a controlled substance with the intent to sell or distribute as required by 45 CFR § 1633.3(a).

None of the sampled cases reviewed involved defense of any such eviction proceeding. Interviews with management and staff members also confirmed that LSEM is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1633.

Required Corrective Action

The DR instructed LSEM to take corrective action to modify its written policy to comport with 45 CFR Part 1633, as outlined above. At the beginning of the visit, LSEM was made aware of this matter and began to take steps to address this corrective action by modifying this policy.

In its December 2014 submission, LSEM provided LSC with evidence of its amended 45 CFR Part 1633 policy. This policy was reviewed by OCE and found to be in compliance with this regulation.

Based on a review of LSEM's response to this Finding, RCA No.11 is closed.

Finding 26: Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Recipients may not participate in any civil litigation on behalf of a person incarcerated in a federal, state, or local prison, whether as plaintiff or defendant; nor may a recipient participate on

behalf of such incarcerated person in any administrative proceeding challenging the condition of the incarceration. *See* 45 CFR § 1637.3.

LSEM's Policy on Representation of Incarcerated Persons comports with 45 CFR Part 1637. None of the sampled cases reviewed involved participation in civil litigation or administrative proceedings on behalf of incarcerated persons. Interviews with management and staff members confirmed that LSEM is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1637.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 27: Review of the recipient's policies and sampled files, as well as interviews with members of management and staff, evidenced that LSEM is in compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC recipients and their staff from engaging a client which it solicited. *See* Section 504(a)(18). This restriction has been contained in all subsequent appropriations acts. This 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: "[t]his part is designed to ensure that recipients and their employees do not solicit clients."

LSEM has a written policy governing the restrictions on solicitation, as required by 45 CFR Part 1638, which comports with the regulation. None of the sampled cases reviewed evidenced involvement in these activities. Interviews with management and staff members confirmed that LSEM is not involved in this prohibited activity and is, therefore, in compliance with the requirements of 45 CFR Part 1638.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 28: Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that LSEM is in 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. Nor may LSC funds be used to bring suit to assert, or case

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

None of the sampled cases reviewed evidenced involvement in these activities. Interviews with management and staff members confirmed that LSEM is not involved in this prohibited activity and is, therefore, in compliance with the requirements of 45 CFR Part 1643.

LSEM has a written policy pertaining to Restrictions on Assisted Suicide, Euthanasia, and Mercy Killing as required by 45 CFR § 1643.5, which comports with the regulation.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 29: Review of sampled cases, as well as interviews with members of management and staff, evidenced that LSEM is in 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.

None of the sampled cases evidenced involvement with these prohibited activities. Interviews with management and staff members confirmed that LSEM is not involved in the aforementioned prohibited activities and is in compliance with these requirements.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 30: Review of LSEM’s policies evidenced substantial compliance with the requirements of 45 CFR Part 1644. (Disclosure of case information). LSEM must modify their written policy pertaining to 45 CFR Part 1644.

In accordance with 45 CFR Part 1644, recipients are directed to disclose to LSC and the public certain information on cases filed in court by their attorneys. Under 45 CFR § 1644.4, the following information must be disclosed for all actions filed on behalf of plaintiffs or petitioners who are clients of the recipient:

- a. the name and full address of each party to a case, unless the information is protected by an order or rule of court or by State or Federal law, or the recipient’s attorney reasonably believes that revealing such information would put the client of the recipient at risk of physical harm;
- b. the cause of action;
- c. the name and full address of the court where the case is filed; and
- d. the case number assigned to the case by the court.

LSEM has a written policy on Disclosure of Case Information as required by 45 CFR § 1644.5. However, the policy needs to be modified. The policy does not indicate that the case disclosure requirements also apply to subgrant cases pursuant to 45 CFR § 1644.3(a)(4).

Required Corrective Action

The DR instructed LSEM to take corrective action and modify their policy to comport with 45 CFR Part 1644. At the beginning of the visit, LSEM was made aware of this matter and began to take steps to address this corrective action by modifying this policy.

In its December 2014 submission, LSEM provided LSC with evidence of its amended 45 CFR Part 1644 policy, as instructed by OCE in the DR. The policy was reviewed by OCE and found to be in compliance with this regulation.

Based on a review of LSEM’s response to this Finding, RCA No. 12 is closed.

Finding 31: The Accounting Manual was reviewed and it was determined that it was in general compliance with LSC’s requirements. However, the Board of Directors (“BOD”) did not review and approve the Accounting Manual as required by LSC’s Accounting Guide.

OCE obtained LSEM’s Accounting Manual and reviewed it for compliance with the Accounting Guide for LSC Recipients, 2010 Edition (“LSC Accounting Guide”). It was determined that LSEM’s Accounting Manual is adequate and in general compliance with LSC requirements, except that the BOD has not reviewed and approved it, as required. See LSC Accounting Guide, Section 1-7, Responsibilities of the Financial Oversight Committee or Committees, Number 3.

Additionally, it was disclosed that certain accounting policies are included in LSEM’s Operating Manual, which are not in the Accounting Manual. These accounting policies should also be reviewed and approved by the BOD.

Recommendation

The DR recommended that LSEM include the accounting policies found in the Operating Manual in its Accounting Manual and to have the BOD review and approve an updated Accounting Manual.

In its December 2014 submission, LSEM provided updated accounting policies and reported that the Board of Directors reviewed the updated Accounting Manual and approved it on November 20, 2014.

Finding 32: A review of the Segregation of Duties Worksheet, a matrix of internal controls and the employees who perform financial functions, designed by OCE and completed by the DF, disclosed that there are strong segregation of duties within the financial processing of transactions at LSEM.

Interview of the DF and review of the Segregation of Duties Worksheet disclosed that proper segregation of duties has been achieved by LSEM. The strong segregation of duties were achieved due to LSEM having three (3) accountants, the Accountant General Ledger (“AGL”), the Grants Accountant (“GA”), and the DF. In addition, LSEM has two (2) non-financial employees, the Director of Human Services (“DHR”) and the Executive Assistant (“EA”), involved in the processing of financial transactions.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 33: Based upon an interview with the Treasurer of LSEM's BOD and a limited review of BOD meeting minutes for the time period of June 2013 to July 2014, it was disclosed that LSEM's BOD is in compliance with LSC's regulations and requirements.

Interview of the Treasurer of LSEM's BOD concerning the Responsibilities of the Financial Oversight Committees, as outlined in LSC's Accounting Guide, Chapter 1, Section 1-7, and review of a sample of minutes of BOD meetings for June 2013 to July 2014 disclosed that the BOD generally adheres to LSC regulations and requirements.

LSEM's Budget Finance and Audit Committee fulfills its fiduciary responsibilities and duties in accordance with LSC's regulations and requirements relating to accounting and reporting practices by:

- Guiding the process of selecting LSEM's auditor and recommending the selection of a particular auditor.
- Meeting with the auditor for an exit conference at the completion of each audit.
- Reviewing the expenditure budget in detail and recommending approval to the full BOD.
- Maintaining communications with the auditor and meeting with the auditor to discuss and/or inquire about audit reports, financial statements and the effectiveness of LSEM's management of accounting and financial functions.
- Hiring the auditor and setting the auditor's compensation.
- Overseeing the auditor's activities.
- Setting rules and processes for complaints concerning:
 - a) Accounting practices and
 - b) Internal control practices.
- Instituting any changes necessary to ensure proper oversight and control of funds.
- Reviewing the IRS 990 for completeness, accuracy, and on time filing and reviewing and approving LSEM's annual budget.
- Reviewing monthly management reports (including budget and actual income and expenses variances, and statement of cash on hand) with the ED.
- Coordinating board training on financial matters.
- Ensuring that LSEM's operations are conducted and managed in a manner that emphasizes ethical and honest behavior, compliance with applicable laws, regulations and policies, effective management of LSEM's resources and risks, and accountability

of persons within the organization.

See LSC Accounting Guide, Chapter 1, Section 1-7.

The LSEM BOD's Treasurer is considered a financial expert by LSEM due to his involvement in private business accounting as an attorney. He was actively involved in mergers and acquisitions and non-profit accounting as an attorney.

Additionally, LSEM's BOD and its financial oversight committee, through its Charter, have policies and procedures that define the committee's financial duties and responsibilities. *See* LSC Accounting Guide, Chapter 1, Section 1-7, Paragraph 6.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 34: A limited review of the cash receipts was performed for selected receipts recorded in the operating checking account in May 2014. The review disclosed that LSEM has adequate policies and proper internal controls surrounding cash receipts, which are in compliance with LSC's requirements.

A limited review of cash receipts totaling \$70,203.74 (16 individual deposits) for May 2014 deposited into the operating checking account was conducted. The review disclosed compliance with LSEM's Accounting Manual and the LSC Accounting Guide.

It was noted that in LSEM's reception area, where the receptionist receives cash receipts, there is a sign instructing clients that a receipt should be given for all cash and/or checks given to LSEM's receptionist, and if no receipt given, a supervisor should be contacted. *See* LSC Accounting Guide, Appendix VII, H, Number 15.

Overall, the internal controls over cash receipts and the processing of cash receipts are considered adequate and in compliance with LSC's requirements.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 35: A limited review of cash disbursements evidenced that LSEM has adequate policies and procedures which include proper internal controls surrounding such disbursements, and in compliance with LSC's requirements.

A review of a sample of 43 cash disbursements, totaling \$52,343.30 from the operating checking account for the month of May 2014 disclosed compliance with LSEM's Financial Policies Manual and the LSC Accounting Guide. The internal controls appeared to be adequate and followed in the processing of the disbursements. All checks were signed by the ED, after

the check amount and payee was reconciled to the original documentation. The sequence of the check numbering system was maintained, and all voided checks are defaced and kept in a locked cabinet.

The review of the disbursements, as described above, also disclosed that LSEM does not mark invoices, receipts or documents supporting the disbursements as “Paid” to prevent duplicate payments as required by the LSC Accounting Guide, Section 3-5.4(a).

LSEM instituted the practice of stamping documents supporting disbursements with a “Paid” rubber stamp to prevent duplicate payments during the visit.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 36: A limited review of the policies and procedures surrounding expense reports and credit card statements and the processing of such transactions disclosed compliance with LSC’s requirements.

The review of 10 expense reports for the ED and his direct reports for the months of April and May 2014, and a review of the credit card statement as of May 15, 2014, disclosed that all expenses charged are documented by individual receipts and are agreed to the expense reports or credit card statements. Additionally, the processing of the expense reports and credit card expenses comply with LSEM’s and LSC’s requirements. All are reviewed and approved by the employee’s supervisor. The ED’s expense reports and credit card expenses are reviewed by the DF prior to payment and twice a year are reviewed and approved by the BOD’s Treasurer.

Recommendation

The DR recommended that the ED’s expense reports and credit card expenses be reviewed quarterly by the BOD’s Treasurer.

In its response to the DR, LSEM stated that, beginning with the first quarter of 2015, the Board Treasurer would review the Executive Director’s expense reports and credit card expenses on a quarterly basis.

Finding 37: Travel advances disclosed that there are proper internal controls and procedures surrounding the transactions.

A review of one (1) travel advance issued in April 2014, disclosed that: the advance was approved by the ED; the amount appeared reasonable; the advance was noted on the employee’s expense report; and it was properly cleared through the expense report process. The issuance and clearance of the travel advance transaction had proper internal control procedures and was in compliance with LSEM’s policies and procedures and LSC’s requirements.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 38: A limited review of the bank account reconciliations for compliance with the LSC Accounting Guide and LSEM's policies and procedures disclosed that bank reconciliations are not being approved by an employee independent of the accounting function, as required by LSC.

The LSC Accounting Guide, Sections 3-5.2(d) and 3-5.4, require that bank reconciliations be performed as follows:

Reconciliations are to be performed monthly by a person who has no access to cash, who is not a regular check signer, and has no cash bookkeeping duties; checks and deposits are to be examined for accuracy; proper journal entries are to be made in the general ledger and check register for voided checks; bank statements are to be reconciled with the respective general ledger cash account; and completed bank account reconciliations are to be reviewed by a responsible individual and be initialed and dated.

The LSC Accounting Guide, Appendix VII, I, Bank Reconciliations, contains additional guidelines to strengthen and improve internal controls in this area. A review of April and May 2014 bank reconciliations disclosed that LSEM's policies and procedures comport with LSC Accounting Guide requirements, except for the review of the bank reconciliation not being conducted by an employee independent of the accounting function. The DF performs the bank reconciliations at LSEM; the bank reconciliations are not reviewed or approved by anyone other than the DF.

Required Corrective Action

The DR instructed LSEM to have bank reconciliations reviewed and approved by a responsible employee, independent of the accounting function, pursuant to the LSC Accounting Guide, § 3-5.2(d).

In its response to the DR, LSEM stated that it "has revised its policies and procedures to state that the Human Resource Director reviews the bank reconciliations prepared by the Director of Finance."

This corrective action shall remain open until such time as LSC receives evidence of the new bank reconciliation policy. The policy should be submitted to LSC within 30 days of LSEM's receipt of this Final Report.

Finding 39: A review of LSC Accounting Guide requirements compared to LSEM's policies and procedures concerning client trust accounts, and a limited review of transactions within the funds during May 2014, disclosed compliance with LSC's and LSEM's requirements.

A review of LSEM's policies and procedures pertaining to client trust funds disclosed compliance with LSC's requirements, which are found at Sections 2-2.3 and 3-5.7 of the LSC Accounting Guide. Additionally the LSC Accounting Guide, Appendix VII, L, Numbers 1-7, recommends the following to ensure adequate control over client trust funds:

That client trust funds be deposited into a bank account used only for the client's intended purpose; the client trust bank account be approved by the governing body; two signatures be required on checks; the account be reconciled by an individual not involved with client deposit operations; pre numbered receipts are given to clients for all checks and cash received; a receipt book with pre numbered receipts, a disbursement journal and detailed activity for each client's deposit are maintained; and unclaimed client funds are timely turned over to the state unclaimed funds pursuant to state law. Additionally, a record is to be kept of each client's account.

A review of selected transactions in May 2014 relating to client trust accounts disclosed compliance with LSC and LSEM's requirements.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 40: A limited review of LSEM's petty cash policies and procedures revealed compliance with LSC's regulations, and a review of the St. Louis Office's petty cash transactions for the month of February 2014 disclosed no deficiencies or weaknesses.

The review of the petty cash transactions processed in the month of February 2014 disclosed that the funds are maintained in a locked box stored in a locked file cabinet. All of LSEM's petty cash funds are kept on an imprest basis. The reimbursement of all funds are proper, which included checks made payable to the custodian, and supported by proper receipts. All disbursements contained receipts attached and an employee's signature acknowledging receipt of payment for the minor expenses reimbursed. Additionally, a surprise count of the petty cash fund was conducted and the count matched the balance required. The review of LSEM's petty cash policies and procedures disclosed compliance with LSC's requirements.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 41: A limited review of LSEM’s fixed assets policies and procedures disclosed compliance with LSC requirements. Additionally, a review of the fixed asset ledger and selected assets disclosed compliance with LSC’s requirements.

A review of LSEM’s fixed assets disclosed that LSEM has policies and procedures that are in compliance with LSC’s requirements. A fixed asset ledger is maintained with proper identification of each asset, proper depreciation, and original cost as required by LSC. Additionally, each asset has an identification which is attached to the asset, is consistent with the fixed asset ledger, and consistent with the physical inventory which is conducted every two (2) years.

Accordingly, LSEM is in compliance with LSC’s requirements for its property, plant and equipment, and related transactions.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 42: A review to determine if LSEM’s purchasing policies and procedures were in compliance with LSC’s requirements was conducted and disclosed that bids are not always obtained for purchases over \$5,000.

LSC requirements related to purchasing all found in the Property Acquisition and Management Manual, 45 CFR Part 1630, and Section 3-5.4(a) of the LSC Accounting Guide.

A review of LSEM’s policies and procedures for purchasing goods and services was conducted and found to be in general compliance with LSC’s requirements. However, a review of two (2) purchases made in 2013, which were over \$5,000 each, disclosed that bids were not obtained (no documentation of the bidding was available). LSEM’s policies and procedures concerning capital purchases require that bids be obtained for all purchases over \$5,000.

Additionally, the LSC Accounting Guide, Appendix VII, D. Procurement, Numbers 11 and 12, recommends that, to ensure compliance with LSC requirements, the recipient have a procedure that requires that bids be obtained or written justification be documented for a “Sole Source Supplier” prior to entering into a contract that exceeds a specified dollar amount, and that each purchase, above a reasonable level, be fully documented by maintaining the bids received.

Required Corrective Action

The DR instructed LSEM to take corrective action and either obtain bids or have written justification for sole source suppliers for all purchases over \$5,000 and the bids and written justifications should be maintained for future review pursuant to the LSC requirements. In its response to the DR, LSEM stated that it has revised its policies and procedures to state that written quotes are required for all purchases, including sole source purchases, in excess of

\$10,000. In addition, LSEM stated that the policy requires each purchase to be fully documented by maintaining the bids received and the approvals given.

This corrective action shall remain open until such time as the policy is received and reviewed by LSC. The policy should be submitted to LSC within 30 days of LSEM's receipt of this Final Report.

Finding 43: A limited review of LSEM's payroll policies and procedures and the processing of a sample of pay checks during the payroll period disclosed general compliance with LSC's requirements and recommendations. However, the payroll procedures do not state that the payroll is to be reviewed and approved by an employee independent of the payroll function.

A review of LSEM's payroll policies and procedures disclosed that they are in general compliance with LSC's requirements, which are found in Section 3-5.5 of the LSC Accounting Manual. However, the policies and procedures do not state that the payroll is to be reviewed and approved by an employee independent of the payroll function, which is a recommended internal control. Currently, the payroll is reviewed and approved by the DHS, who indicates his review and approval by signing and dating the payroll summary. The review of a sample of payroll transactions from the May 31, 2014 payroll evidenced that time cards are approved by the employee's supervisor, along with vacation, holiday, sick, and personal days. This time is tracked by the payroll system. The DHS reviews and approves the payroll prior to transferring the funds to the checking account.

LSEM has adequate policies and procedures surrounding the processing of its payroll, which comply with LSC's requirements and no deficiencies or weaknesses were noted in the review of samples of payroll processing for four (4) employees. However, as noted above, the policies and procedures do not state that the payroll is to be reviewed and approved by an employee independent of the payroll function

Recommendation

The DR recommended that LSEM's policies and procedures concerning the processing of payroll be revised to state that payroll is to be reviewed and approved by a responsible employee independent of the payroll process prior to issuing the payroll checks. *See* LSC Accounting Guide, Appendix VII, B. Personnel and Payroll, Number 5.

In its response to the DR, LSEM stated that its policies and procedures have been revised to state that a review of each payroll will be done by the Human Resources Director before processing to verify hours, rates, or other bases of payment by referencing to attendance records, employment authorizations, approved rate changes, etc. (by someone not connected with the preparation or distribution of the payroll).

Finding 44: The security surrounding the Information Technology (“IT”) systems at LSEM is adequate and in compliance with LSC’s requirements.

The LSC Accounting Guide recommends that there be adequate security over the recipient’s computer system. Specific requirements are listed in Section 3-6 concerning passwords; passwords are not to be shared, passwords and codes are to be changed periodically and old passwords and users are to be deleted immediately. Additionally, the LSC Accounting Guide, Section 3-5.14 requires that the system have a disaster recovery plan and that there be appropriate firewalls, as well as antivirus and antispyware installed.

A review of LSEM’s computer system consisted of interviewing the Manager of Information Systems (“MIS”) as to whether passwords are required to access the software systems and if the passwords are changed on a regular basis and old passwords and users deleted. The MIS stated that passwords are required, and are required to be changed on a periodic basis.

Additionally, a review was conducted to ascertain whether or not the accounting system was backed up on a regular basis to ensure that information could be recovered, if a disaster was to occur. The MIS indicated that the system is backed up through the backup disk being picked up by Iron Mountain every week and maintained offsite. The MIS further indicated that there are security controls such as firewalls, antivirus, and spyware programs installed in LSEM’s system.

Based upon the review, LSEM’s IT system has adequate security and is in compliance with LSC’s requirements.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

Finding 45: A review conducted of LSEM’s Record Retention Policy and the related procedures disclosed compliance with LSC’s requirements.

Per discussion with the staff of LSEM, it was determined that LSEM keeps its records with Iron Mountain for the time periods required by LSC. LSEM has a written policy on Records Retention which was reviewed and found to be in compliance with LSC’s requirements.

There are no recommendations or required corrective actions.

Finding 46: The review of the insurance policy disclosed that LSEM is in compliance with 45 CFR Part 1629 (Bonding of Recipients).

LSC regulations, at 45 CFR Part 1629, mandate that:

- a) If any program which receives Corporation funds is not a government, or an agency or instrumentality thereof, such

program shall carry fidelity bond coverage at a minimum level of at least ten (10) percent of the program's annualized LSC funding level for the previous fiscal year, or of the initial grant or contract, if the program is a new grantee or contractor. No coverage carried pursuant to this part shall be at a level less than \$50,000.

b) A fidelity bond is a bond indemnifying such program against losses resulting from the fraud or lack of integrity, honesty or fidelity of one or more employees, officers, agents, directors or other persons holding a position of trust with the program.

A review was conducted of LSEM's insurance policy. LSEM's Fidelity Bond covers employee theft up to \$500,000 per occurrence. The policy has a term of three (3) years, beginning May 15, 2013, which is set to expire on May 15, 2016. This coverage exceeds the minimum \$50,000 coverage required by 45 CFR Part 1629 and is 27% of the program's annualized LSC funding level for 2013.

There are no recommendations or required corrective actions.

In its response to the DR, LSEM agreed with this Finding.

IV. RECOMMENDATIONS¹³

Consistent with the findings of this report, it is recommended that LSEM implement the following recommended actions:

1. Provide intake staff with training regarding proper application of over-income factors, pursuant to 45 CFR § 1611.5 and LSEM's FEP. (Finding 2)

In its response to the DR, LSEM stated that it "will give additional training to intake staff on the proper application of over-income factors."

2. Provide intake staff with training regarding 45 CFR Part 1626 and the methods to be utilized to verify an applicant's eligible alien status. It is also recommended that intake staff be trained on the effects of the requirements relating to the Kennedy Amendment, T-Visa, and U-Visa cases, and the removal of the requirement for an applicant to demonstrate citizenship/alien eligibility in cases where domestic violence is alleged so long as the prerequisites of 45 CFR § 1626.3(d) are met. (Finding 2)

In its response to the DR, LSEM stated that staff has been provided with "additional training regarding methods to verify an applicant's eligible alien status, including when domestic violence is alleged" and will provide this training again.

3. Cease the practice of providing clients with blank retainer agreements. (Finding 2)

In its response to the DR, LSEM stated that it "will cease giving clients blank retainer agreements for them to fill in the scope of representation."

4. Develop a procedural review of client retainer agreements to make certain that they properly match the scope of the representation provided to the client and that the LSEM attorney completes the scope in terms of services to be provided to the client. (Finding 6)

In its response to the DR, LSEM stated that staff "will be retrained to have the description in the retainer of the scope of representation match the actual scope of representation provided and for the attorney to fill in the scope in terms of service to the client."

¹³ 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. By contrast, the items listed in "Required Corrective Actions" ("RCA") must be addressed by the program, and will be enforced by LSC.

5. Periodically review closing codes to ensure that the closure category best describes the level of service provided, and provide training or other guidance to staff on the correct application of LSC closing codes. (Finding 10)

In its response to the DR, LSEM stated that it “will conduct a staff training to review the various closing codes so that the best category is chosen and to review the application of the correct LSC closing codes.” Additional comments to the DR stated that LSEM “conducts refresher training on proper procedures in closing cases, including closing codes in the last quarter of each year, and that it reviews with staff the most common errors found during the annual self-inspection of cases.”

6. Include the accounting policies in the Operating Manual in its Accounting Manual and have the BOD review and approve the revised Accounting Manual. (Finding 31)

In its response to the DR, LSEM stated that the “accounting policies in the Operating Manual have been included in the Accounting Manual.” LSEM further stated that the Board of Directors reviewed the updated Accounting Manual and approved it on November 20, 2014.

7. Require that the ED’s expense reports and credit card expenses be reviewed quarterly by the BOD’s Treasurer. (Finding 36)

In its response to the DR, LSEM stated that “beginning with the first quarter of 2015, the Board Treasurer will begin reviewing the Executive Director’s expense reports and credit card expenses on a quarterly basis.”

8. LSEM’s policies and procedures concerning the processing of the payroll should be revised to state that the payroll is to be reviewed and approved by a responsible employee independent of the payroll function prior to issuing the payroll checks, pursuant to The LSC Accounting Guide, Appendix VII, B. Personnel and Payroll, Number 5. (Finding 43)

In its response to the DR, LSEM stated that its policies and procedures have been revised to state that a review of each payroll will be done by the Human Resources Director before processing to verify hours, rates, or other bases of payment by referencing to attendance records, employment authorizations, approved rate changes, etc. (by someone not connected with the preparation or distribution of the payroll).

V. REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this report, LSEM is required to submit a plan within 30 days of the receipt of the Draft Report that describes the actions it will take to implement the Required Corrective Actions (“RCA”) and implement the following RCAs:

1. Ensure that all walk-in applicants comply with the screening and documentation requirements pursuant to 45 CFR §§ 1626.6(a) and 1626.7(a), and cease using the form with the “yes” pre-checked for United States citizen. (Finding 2)

In its response to the DR, LSEM stated that it “will ensure that all walk-in clients comply with screening and documentation requirements and execute proper citizenship attestations.” LSEM further stated that it has ceased using the form with “yes” pre-checked for United States citizenship.

Based on a review of LSEM’s response to this Finding, RCA No. 1 is closed.

2. Amend its Financial Eligibility policy to comply with 45 CFR Part 1611 (Financial Eligibility). (Finding 3)

In its December 2014 submission, LSEM provided LSC with evidence of their amended FEP policy, which now complies with 45 CFR Part 1611.

Based on a review of LSEM’s response to this Finding, RCA No. 2 is closed.

3. Amend its policy pertaining to 45 CFR Part 1626 (Restrictions on legal assistance to aliens) to comply with 45 CFR § 1626.12. (Finding 5)

In its December 2014 submission, LSEM provided LSC with evidence of its amended 45 CFR § 1626.12 policy, which is now in compliance with this regulation. Based on a review of LSEM’s response to this Finding, RCA No. 3 is closed.

4. Amend its 45 CFR Part 1636 (Client identity and statement of facts) written policy to comply with 45 CFR § 1636.4. (Finding 7)

In its December 2014 submission, LSEM provided LSC with evidence of their amended 45 CFR Part 1636 policy, which is now in compliance with this regulation.

Based on a review of LSEM’s response to this Finding, RCA No. 4 is closed.

5. Amend its 45 CFR Part 1620 policy (Priorities in use of resources) to comply with 45 CFR § 1620.4 (Establishing policies and procedures for emergencies). (Finding 8)

In its December 2014 submission, LSEM provided LSC with evidence of its 45 CFR Part 1620 amendment, which is now in compliance with this regulation.

Based on a review of LSEM’s response to this Finding, RCA No. 5 is closed.

6. Amend its 45 CFR Part 1604 policy (Outside practice of law) to comply with 45 CFR § 1604.3. (Finding 13)

In its response to the DR, LSEM stated that it will take steps to revise its policy regarding 45 CFR Part 1604 (Outside Practice of Law) to comply with 45 CFR § 1604.3, and will submit a draft to LSC review.

This corrective action will remain open until such time as the amended policy is received and reviewed by LSC. The policy should be submitted within 30 days of LSEM's receipt of this Final Report.

7. Amend its 45 CFR Part 1609 policy (Fee-generating cases) to comply with 45 CFR Part 1609. (Finding 15)

In its December 2014 submission, LSEM provided LSC with evidence of its amended fee-generating policy which now complies with this Part 1609.

Based on a review of LSEM's response to this Finding, RCA No. 7 is closed.

8. Ensure that every case that is reported as a PAI case or a staff case contain the necessary documentation to identify the legal assistance provided by a PAI attorney or staff attorney, and is consistent with the appropriate closing code pursuant to the documentation requirements of the CSR Handbook (2008 Ed., as amended 2011), § 10.5. (Finding 17)

In its response to the DR, LSEM stated that staff will be re-train staff on "the necessary documentation to identify the legal assistance provided for both PAI and staff cases, and on the proper closing codes from the CSR Handbook." In addition, LSEM stated "that it offers refresher training to staff on closing codes and closing procedures every year."

Based on a review of LSEM's response to this Finding, RCA No.8 will remain open until such time as LSEM submits evidence that such trainings have taken place. The evidence should be submitted within 30 days of LSEM's receipt of this Final Report.

9. Amend its 45 CFR Part 1627 written policy (Subgrants and membership fees or dues) to fully comply with 45 CFR Part 1627. (Finding 18)

In its response to the DR, LSEM stated that it will modify its policy to comply with 45 CFR Part 1627 regarding: Section 1627.3 (the requirements to establish a subgrant); Section 1627.5 (the prohibition on contributions); Section 1627.6 (the requirements governing transfers to another LSC recipient); and Section 1627.7 (the authorization of LSEM payment(s) to tax sheltered annuities).

This corrective action shall remain open until such time as LSC receives and reviews LSEM's amended policy. This amended policy should be submitted to LSC within 30 days of LSEM's receipt of this Final Report.

10. Amend its 45 CFR Part 1612 policy (Restrictions on lobbying and certain other activities) to comply with 45 CFR § 1612.11. (Finding 21)

In its December 2014 submission, LSEM provided LSC with evidence of its amended 45 CFR Part 1612 policy, which is now in compliance with this regulation.

Based on a review of LSEM's response to this Finding, RCA No.10 is closed.

11. Amend its 45 CFR Part 1633 policy (Restriction on representation in certain eviction proceedings) to comport with 45 CFR Part 1633. (Finding 25)

In its December 2014 submission, LSEM provided LSC with evidence of its amended 45 CFR Part 1633 policy, which is now in compliance with this regulation.

Based on a review of LSEM's response to this Finding, RCA No.11 is closed.

12. Amend its 45 CFR Part 1644 policy (Disclosure of case information) to comply with 45 CFR § 1644.5. (Finding 30)

In its December 2014 submission, LSEM provided LSC with evidence of its amended 45 CFR Part 1644 policy, which is now in compliance with this regulation.

Based on a review of LSEM's response to this Finding, RCA No.12 is closed.

13. Bank reconciliations at LSEM must be reviewed and approved by a responsible employee who is independent of the accounting function. *See* LSC Accounting Guide, § 3-5.2(d). (Finding 38)

In its response to the DR, LSEM stated that it has revised its policies and procedures to state that the Human Resource Director reviews the bank reconciliations prepared by the Director of Finance.

This corrective action shall remain open until such time as LSC receives evidence of the new bank reconciliation policy. The policy should be submitted to LSC within 30 days of LSEM's receipt of this Final Report.

14. Obtain bids or have written justification for sole source suppliers for all purchases over \$5,000 and the bids and written justifications should be maintained for future review pursuant to LSEM's policy and the LSC Accounting Guide, Appendix VII, D. Procurement, Numbers 11 and 12. (Finding 42)

In its response to the DR, LSEM stated that it has revised its policies and procedures to state that written quotes are required for all purchases, including sole source purchases, in

excess of \$10,000. In addition, LSEM stated that the policy requires each purchase to be fully documented by maintaining the bids received and the approvals given.

This corrective action shall remain open until such time as the policy is received and reviewed by LSC. The policy should be submitted to LSC within 30 days of LSEM's receipt of this Final Report.



Legal Services of Eastern Missouri, Inc.

4232 Forest Park Avenue

St. Louis, Missouri 63108

Phone: (314) 534 - 4200 / Fax: (314) 534 -1425

www.LSEM.org



Pursuing Justice,
Strengthening Lives

Daniel K. Glazier
Executive Director & General Counsel
(314) 256-8722
DKGlazier@lsem.org

December 9, 2014

Mr. Joseph Green
Legal Services Corporation
3333 K Street, NW
Washington, DC 20007
Via email: greenj@lsc.gov

Dear Mr. Green:

During the OCE site visit at LSEM in September, you provided us with the attached list of requested changes to policies that OCE believed were needed to comply more fully with LSC regulations.

LSEM has made the requested changes and they are attached in a separate PDF document.

The OCE changes requested for the Accounting manual were approved by the LSEM Board at its 11/20/14 meeting and are attached. Also attached is a memo to the LSEM Board which outlines the recommended accounting manual changes requested by OCE.

Please let us know if there is anything further needed in this regard.

We believe this concludes all the requested action/ changes by OCE for LSEM before your report is submitted.

Thanks so much for your assistance.

Sincerely,

Daniel K. Glazier
Executive Director & General Counsel

DKG/dsr
Enclosures

Daniel K. Glazier, Executive Director and General Counsel



Legal Services of Eastern Missouri is proud to be a Legal Services Corporation (LSC) grantee, and we comply with all LSC conditions and prohibitions in acceptance of all funds.



Policy On Fee-Generating Cases And Referrals

45 CFR Part 1609

- I. **Definition:** "fee-generating case" means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may 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).
- II. **Prohibition:** Neither LSEM nor any of its employees will use LSC funds to provide legal assistance in fee-generating cases unless other adequate representation is unavailable.
- III. **Authorized representation in fee-generating cases:** When other adequate representation is deemed to be unavailable, an "approval for representation" form must be signed by the director or the director's designee, except when done under 45 CFR 1609.3(b)(2) (see form following this policy). A copy of the approval must be in the client's file and a copy must be forwarded to the director's office. Other adequate representation is unavailable when:
1. The case has been rejected by the Lawyer Referral and Information Service (operated by The Bar Association of Metropolitan St. Louis), The Missouri Bar Lawyer Referral Service, or similar lawyer referral service operated in LSEM's service area, or by two private attorneys (45 CFR 1609.3(a)(1) or
 2. Neither the referral service nor two (2) private attorneys will consider the case without payment of a consultation fee. 45 CFR 1609.3(a)(2).
-

IV. Advocates may provide representation in fee-generating cases without referral, and without the "approval for representation" form signed by the director or the director's designee, in the following circumstances:

- 1 Cases brought to secure benefits under Subchapter II of the Social Security Act, and other benefits listed under 1609.3(b)(1) ,including SSI or SSDI benefits and retroactive benefits for eligible clients, but staff may not seek or accept attorney's fees.
- 2 If LSEM has determined, after consultation with the appropriate private bar representatives in its service area, that private attorneys ordinarily do not accept such cases or do not accept them without prepayment of a fee (45 CFR 1609.3(b)(2)), (e.g., cases brought under state or federal civil rights statutes, cases of injunctive or declaratory relief in which damages are not the primary form of relief or where damages are expected to be less than \$1,000.00, and the like. See further examples described in the Memo of May 2012 from the Director of Advocacy, Joel Ferber to the Executive Director, Daniel Glazier, which follows this policy).

However in cases falling under IV type 2 above, in lieu of a signed approval form, a copy of the May 2012 Memo should be put in the case file, with a copy of the Memo and the case # involved forwarded to the Director's office or kept in a central place where the Director's office may access the group of cases done under this exception listed in this Policy section IV. 2.

V. Advocates may provide representation in fee-generating cases without referral, in the following circumstances, but must have the "approval for representation form" signed by the Director or his designee:

1. Documented attempts in the past to refer similar cases have been futile. 45 CFR 1609.3(b)(3)(i).
2. Emergency circumstances compel immediate action before an attempt to refer can be made. In such a case, the client must be informed that a referral will be attempted at a later time, if appropriate and consistent with professional responsibilities. 45 CFR 1609.3(b)(3)(ii).
3. Recovery of damages is not the principle objective of the client's case and substantial attorney's fees are unlikely. 45 CFR 1609.3(b)(3)(iii).

The foregoing policy does not apply to cases in which LSEM or one of its employees is appointed by a court to provide representation pursuant to a statute or court rule or practice that applies to all attorneys in the jurisdiction, nor does this policy apply to cases LSEM undertakes pursuant to a contract with a government agency or other entity.

VI. Reimbursement of out-of-pocket costs and expenses: When a case or matter subject to this policy results in recovery of damages or statutory benefits, LSEM may accept reimbursement from the client of said costs and expenses incurred in connection with the case or matter if the client has agreed in writing to reimburse LSEM for such costs and expenses out of any such recovery.

VII. Regarding accounting for attorneys' fees awards (45 CFR 1609.4)

POLICY:

In accordance with 45 CFR Part 1609.4, attorneys' fees are recorded during the accounting period in which the award is received. Attorneys' fees awards received by LSEM should be allocated to the LSC grant and to other grants in the same proportion that LSC funds and other grant funds were expended to support the representation generating the award.

PROCEDURE:

An award of attorneys' fees should be immediately forwarded to the Assistant to the Executive

Director with a written explanation including the case name and number. If the award is received through an ACH bank transfer, the attorney of record will be contacted by a member of the finance department requesting the information.

If a portion of funds were awarded to the client, the entire amount should be deposited into the client trust account. After the award check has cleared the bank, LSEM's portion should be transferred to the operating checking account. Attorneys' fees awards are recorded during the same accounting period in which the money from the fee award is actually received.

Attorneys' fees awards received by LSEM should be allocated to the LSC grant and to other grants in the same proportion that LSC funds and other grant funds were expended to support the representation generating the award.

The LSC allocation will be calculated as follows:

Total LSC funding code 6 case hours for representation divided by total case hours for representation multiplied against the amount of the attorneys' fees award.

LSC Regulation §1609.4 Accounting for and use of attorneys' fees.

Attorneys' fees received by a recipient for representation supported in whole or in part with funds provided by the Corporation shall be allocated to the fund in which the recipient's LSC grant is recorded in the same proportion that the amount of Corporation funds expended bears to the total amount expended by the recipient to support the representation.

Attorneys' fees received shall be recorded during the accounting period in which the money from the fee award is actually received by the recipient and may be expended for any purpose permitted by the LSC Act, regulations and other law applicable at the time the money is received. [75 FR 6818, Feb. 11, 2010]

VI. —

VI.VIII. ~~VII.~~ Nothing in this policy shall prevent LSEM from:

1. Requiring a client to pay court fees when the client does not qualify to proceed *in forma pauperis* under the rules of the jurisdiction; or
2. Accepting attorney's fees when a court appoints LSEM or an employee of LSEM pursuant to a statute or a court rule or practice that is applicable to all attorneys in the jurisdiction. (See policy on "Attorney's Fees" later in this chapter.)

REVISED 11/2014/2012
(Income Guidelines Changed 3/2014/10/2011)
(Asset Ceilings Reviewed & Approved 3/10/2011)
(Guidance on Asset Ceilings Reviewed, Revised and Approved 6/12/12)

Legal Services Of Eastern Missouri, Inc.
Procedures And Guidelines For Intake And
Determination Of Client Eligibility (45 CFR 1611)

These procedures and guidelines will be updated and revised as necessary. In determining these standards for client eligibility, the program took into consideration the following factors: 1) the eligible client population in the area served by LSEM; 2) the resources of LSEM; 3) other sources of free or low-cost legal services; 4) the priorities of LSEM; 5) the economy in LSEM's service area; and 6) the cost-of-living standards in LSEM's service area.

In making a determination of eligibility for legal assistance, intake workers are to complete the entire financial statement on each potential client. Information shall be obtained for each category on the financial statement. Whenever possible, all eligibility information shall be entered directly into Kemp's.

I. Maximum Income Levels

The maximum annual income levels established by LSEM for client financial eligibility are the official Federal Poverty Income Guidelines. Annual income may not exceed one hundred and twenty-five percent (125%) of the official guidelines, except in certain circumstances which are set out below in the section entitled "authorized exceptions". "Income" means actual current annual total cash receipts, before taxes, of all persons who contribute to the support of an applicant's household. "Household" means individuals living together on a permanent and/or long-term basis who provide monetary and non-monetary support to each other. "Total cash receipts" include:

1) money wages and salaries before any deduction, but do not include food or rent in lieu of wages;

2) income from self-employment, after deductions, for business or farm expenses; 3) regular payments from public assistance; social security; unemployment and worker's compensation; 4) strike benefits from union funds; 5) veterans benefits; 6) training stipends; 7) alimony, child support and military family allotments or other regular support from an absent family member or someone not living in the household; 8) public or private employee pensions, and regular insurance or annuity payments; and 9) income from dividends, interest, rents, royalties or from estates and trusts. They do not include money withdrawn from a bank, tax refunds, gifts, compensation and/or one-time insurance payments for injuries sustained, and non-cash benefits.

II. Authorized Exceptions

If an individual's gross income exceeds the program's established guidelines, but is not more than 200% of the poverty guidelines, the individual may be provided legal assistance if:

- A) The person is seeking legal assistance to secure and/or maintain benefits provided by a governmental program for the poor and/or mentally or physically impaired; or
- B) The person has outstanding medical expenses which amount to a substantial portion of the individual's gross income.

In addition to the above exceptions, if a person's gross income is primarily committed to medical or nursing home expenses, and that, by excluding such expenses committed to medical or nursing home expenses, the applicant would be otherwise financially eligible for services, that person may be served even if the individual's gross income exceeds the program's established guidelines but is not more than 200% of the poverty income guidelines. This exception must be based on written documentation received by LSEM, and must be approved by the executive director, or his/her designee, in writing. (45 CFR 1611.5(a) (2)).

III. Determination of Eligibility

A. FACTORS TO BE USED IN DETERMINATION OF THE ELIGIBILITY OF CLIENTS UNDER THE MAXIMUM INCOME LEVELS.

In addition to an individual's gross income, the following factors shall be considered in determining eligibility of individuals whose income is under the maximum level set by the program, either under LSC funding or other non-LSC funding sources:

1. Current income prospects, taking into account seasonal variations in income.
2. The availability of private legal representation at a low cost with respect to the particular matter for which the person is seeking assistance.
3. The consequences for the person if legal assistance is denied.
4. The existence of assets, as defined in regulation 45 CFR 1611.2 (d) — “

'Assets' means cash or other resources of the applicant or members of the applicant's household that are readily convertible to cash, which are currently and actually available to the applicant", which are in excess of the asset ceilings set out below in the section entitled "asset ceilings".

5. Evidence of a prior administrative or judicial determination that the person's present lack of income results from refusal or unwillingness, without good cause, to seek or accept suitable employment.

If a determination is made not to serve a person on the basis of the factors listed directly above in 1 – 5, then the intake worker shall also consider the factors listed directly below in section

B.

B. FACTORS TO BE USED IN DETERMINATION OF THE ELIGIBILITY OF CLIENTS OVER THE MAXIMUM INCOME LEVELS.

In addition to an individual's gross income, the following factors shall be considered in determining eligibility of individuals whose income is over the maximum level set by the program (either under LSC or non-LSC funding sources):

1. Current income prospects, taking into account seasonal variations in income.
2. Unreimbursed Medical expenses, medical insurance premiums, and nursing home expenses (see Section II. above).
3. Fixed debts and obligations, including current taxes, such as Federal, State and Local payroll taxes.
4. Child care, transportation, job training or educational activities in preparation for employment, and other expenses necessary for employment.
5. Expenses associated with age or physical infirmity of resident family members.
6. Other factors related to financial inability to afford legal assistance.
 - a. An applicant who is the victim of domestic violence shall not have the income of the allegedly abusive partner included in the household income.

If a determination is made to serve a person based on the factors listed above in (B), then the intake worker shall also consider the factors listed above in (A) of this section.

IV. Asset Ceilings

In addition to income, the assets of the applicant and all persons who are resident members of the household shall be considered in determining eligibility. "Assets" are as defined in regulation 1611.2 (d)-- "'Assets' means cash or other resources of the applicant or members of the applicant's household that are readily convertible to cash, which are currently and actually available to the applicant". LSEM has set an asset ceiling of seven thousand five hundred dollars (\$7,500). Readily available assets would include such things as cash on hand, bank and savings

accounts, stocks, bonds, etc. Non-liquid assets would include such things as work-related equipment not used in producing income, automobiles, real property, etc. Regulation 1611.3 (d) provides that "In establishing asset ceilings, the recipient may exclude consideration of a household's principal residence, vehicles used for transportation, assets used in producing income, and other assets which are exempt from attachment under State or Federal law." In accordance with regulation 1611.3 (d), LSEM adopts all those permitted asset ceiling exclusions, which may be applied to any case, as follows: **1) THE PRINCIPAL RESIDENCE OF AN APPLICANT, 2) NO MORE THAN TWO VEHICLES USED FOR TRANSPORTATION, 3) WORK-RELATED AND/OR BUSINESS ASSETS USED IN PRODUCING INCOME, AND 4) OTHER ASSETS WHICH ARE EXEMPT FROM ATTACHMENT UNDER STATE OR FEDERAL LAW SHALL NOT BE INCLUDED WHEN DETERMINING ASSETS** (for example, a bankruptcy code authorizing exemption. Intake workers -- please see Associate Director of Administration re other possible assets exempt from attachment). The intake workers shall also take into consideration any impediments to the individual's access to the assets of the family unit or household. In addition, reasonable equity value in work-related equipment or other work-related and/or business assets used in producing income, which are essential to the person's employment, or the employment of a member of the household, shall not be used to disqualify an applicant as long as the owner of the equipment or work-related and/or business asset is attempting to produce income consistent with its fair market value. Only the assets of the applicant who is the victim of domestic violence, and other household members, excluding the allegedly abusive partner, will be included in the calculation of household assets.

In unusual circumstances, the executive director may waive the maximum allowable assets of \$7,500. If such a waiver is granted, the decision shall be documented and included in the client's

file. If an intake worker feels that the asset ceiling should be waived in a particular instance, the executive director shall be consulted.

V. Group Representation

Legal assistance may be provided to a group, corporation or association if it is primarily composed of persons who are eligible for legal assistance under the LSC Act, or if a principal activity of the group is the delivery of services to those persons in the community who would be financially eligible for LSC-funded legal assistance, and the legal assistance it is requesting relates to the activity. The group must provide information showing that it lacks, and has no practical means of obtaining, funds to retain private counsel.

VI. Retainer Agreement

Each client who receives extended legal assistance from LSEM shall execute a retainer agreement. (A copy of the retainer agreement to be utilized is attached to these procedures.) The retainer agreement shall be executed when representation begins; if this is not possible due to an emergency situation, the retainer shall be executed as soon as is practicable. The executed retainer agreement shall be made a part of the client's file. The retainer agreement is not required to be executed when the only service to be provided is advice and consultation or brief services, such as third-party telephone contact on behalf of the client or drafting of simple documents. Best practices would dictate the execution of a retainer setting out the duties and responsibilities of both the client and LSEM in all cases other than advice and counsel over the telephone.

VII. Change in Circumstances

If an eligible client becomes ineligible through a change in circumstances, LSEM shall discontinue representation if the change in circumstances is such that the client can afford private

legal assistance and if the discontinuation is not inconsistent with the attorney's professional responsibilities.

VIII. Confidentiality

Nothing herein shall abrogate Section 1001(6) of the LSC Act which states that "attorneys providing legal assistance must have full freedom to protect the best interests of their clients, in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession."

Information furnished to LSEM by a client to establish financial eligibility shall not be disclosed to any person who is not employed by LSEM in a manner that permits identification of the client, without express written consent of the client, except that LSEM shall provide such information to the LSC when:

- A) The Corporation is investigating allegations that question the financial eligibility of a previously identified client and LSEM's representation thereof;
- B) The information sought by the Corporation relates solely to the financial eligibility of that particular client;
- C) The information sought by the Corporation is necessary to confirm or deny specific allegations relating to that particular client's financial eligibility and LSEM's representation thereof; and
- D) The specific information sought by the Corporation is not protected by the attorney/client privilege.

The information provided by the Corporation by LSEM shall not be disclosed to any person who is not employed by the Corporation. Prior to providing the information to the

Corporation, LSEM shall notify the client that LSEM is required to provide to the Corporation the information sought.

IX. Conclusion

If an intake worker has any substantial reason to question financial information given by an applicant, the intake worker shall request verification of the financial information, and shall inform the applicant that representation will not be provided until such verification is received. If any questions or problems should arise at any point during the intake process, the intake workers should contact the executive director or his/her designee.

Effective 3/31/2014

LEGAL SERVICES OF EASTERN MISSOURI, INC.

Income Eligibility Guidelines

(Based On Gross Income)

Family Size	Weekly Income	Monthly Income	Yearly Income
1	\$280.54	\$1,215.67	\$14,588.00
2	\$378.13	\$1,638.58	\$19,663.00
3	\$475.73	\$2,061.50	\$24,738.00
4	\$573.33	\$2,484.42	\$29,813.00
5	\$670.92	\$2,907.33	\$34,888.00
6	\$768.52	\$3,330.25	\$39,963.00
7	\$866.12	\$3,753.17	\$45,038.00
8	\$963.71	\$4,176.08	\$50,113.00
9	\$1,061.31	\$4,599.00	\$55,188.00
10	\$1,158.90	\$5,021.92	\$60,263.00
11	\$1,256.50	\$5,444.83	\$65,338.00

For Each additional dependent after 11, add 5,075.00 per year

**The income guidelines for 2014 poverty guidelines are per the listing from LSC and approved by the LSEM board in the March 2014 Board of Director's meeting

Applicant's Financial Statement

The applicant's financial statement that shall be utilized is in Kemp's Caseworks (Clients for Windows). All clients seeking assistance from LSEM shall have an eligibility slip completed in Kemp's, and a Kemp's case record.

**LEGAL SERVICES OF EASTERN MISSOURI, INC.
RETAINER AGREEMENT**

Legal Services of Eastern Missouri, Inc. (LSEM) and I agree that:

1. You will represent me in the following case: _____

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I understand that LSEM's agreement to represent me in this case or transaction, by the undersigned attorney and/or any other attorney designated by LSEM to help handle my legal problem, does not mean LSEM will represent me in any appeal arising from this case and that LSEM's executive director must approve any appeal in writing.

2. You won't charge me for your services, but if you recover damages or back benefits that I am owed, or if I am financially able to, I will reimburse you for any expenses that you have paid on my behalf to handle this case. There are some costs, for example filing fees (not for our legal services), that I might have to pay myself.

3. You won't settle my case unless I say so.

4. I can tell you to stop representing me whenever I want.

5. You can stop representing me for a good reason, but only after telling me and hearing my side. Some good reasons would be if I don't cooperate, if I don't tell you about changes in my phone number, address, or income, or if I make too much money.

6. I have been told that LSEM's file on me belongs to me, and I may request the file at any time before the file is destroyed by LSEM. I have also been told that after my case is closed, if I want my file, I should make a request for the file in writing. I understand that ten (10) years after my case is closed, LSEM will destroy my file.

7. I understand that LSEM normally does not keep my original documents, but if LSEM needs them for my case and keeps them in my file, LSEM will give me the documents back when no longer needed, or will return them with my closing letter.

8. I can complain if I don't like the work being done on my case, or if you tell me you're going to stop representing me.

9. I won't talk to the other side or their lawyer and will call you right away if they try to talk to me.

10. If attorneys' fees can be recovered from an opposing party in any action or claim brought on my behalf, then I agree to cooperate fully with LSEM in requesting and obtaining such attorney fees at any point in the representation. I further understand and agree that LSEM will have the exclusive right to any such attorneys' fees whether they are awarded by the Court or obtained by a settlement between the parties and that I will have no claim on any such attorneys' fees. I understand that the recovery of attorneys' fees from an opposing party will help LSEM continue to provide free legal services to the low-income community.

11. I agree to let my attorney know where I am at all times, and to cooperate in every way I can with the preparation of my case.

12. I declare that I am a CITIZEN of the United States _____

Signature of Client

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OR

LSEM staff person has reviewed appropriate documentation showing alien eligibility for services (attach documentation).

Signature of LSEM staff person

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13. Everything I've told you about me and about my case is true as far as I know.

14. A copy of this form has been given to me to keep. **NOTE: There is no agreement to represent you until the retainer is signed by an LSEM attorney.**

Signature of LSEM Attorney _____

Signature of Client _____

Date: _____

Title: _____ Address: _____

Formatted: Font: 10 pt, Condensed by 0.1 pt

Date: _____

City _____ State _____ Zip _____

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Telephone number: _____

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**LEGAL SERVICES OF EASTERN MISSOURI, INC.
RETAINER AGREEMENT
(Client Retainer Form Part 1611)**

Legal Services of Eastern Missouri, Inc. (LSEM) and I agree that:

1. You will represent me in the following case: _____

I understand that LSEM's agreement to represent me in this case or transaction, by the undersigned attorney and/or any other attorney designated by LSEM to help handle my legal problem, does not mean LSEM will represent me in any appeal arising from this case and that LSEM's executive director must approve any appeal in writing.

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2. You won't charge me for your services, but if you recover damages or back benefits that I am owed, or if I am financially able to, I will reimburse you for any expenses that you have paid on my behalf to handle this case. There are some costs, for example filing fees (not for our legal services), that I might have to pay myself.

3. You won't settle my case unless I say so.

4. I can tell you to stop representing me whenever I want.

5. You can stop representing me for a good reason, but only after telling me and hearing my side. Some good reasons would be if I don't cooperate, if I don't tell you about changes in my phone number, address, or income, or if I make too much money.

6. I have been told that LSEM's file on me belongs to me, and I may request the file at any time before the file is destroyed by LSEM. I have also been told that after my case is closed, if I want my file, I should make a request for the file in writing. I understand that ten (10) years after my case is closed, LSEM will destroy my file.

7. I understand that LSEM normally does not keep my original documents, but if LSEM needs them for my case and keeps them in my file, LSEM will give me the documents back when no longer needed, or will return them with my closing letter.

8. I can complain if I don't like the work being done on my case, or if you tell me you're going to stop representing me.

9. I won't talk to the other side or their lawyer and will call you right away if they try to talk to me.

10. If attorneys' fees can be recovered from an opposing party in any action or claim brought on my behalf, then I agree to cooperate fully with LSEM in requesting and obtaining such attorney fees at any point in the representation. I further understand and agree that LSEM will have the exclusive right to any such attorneys' fees whether they are awarded by the Court or obtained by a settlement between the parties and that I will have no claim on any such attorneys' fees. I understand that the recovery of attorneys' fees from an opposing party will help LSEM continue to provide free legal services to the low-income community.

11. I agree to let my attorney know where I am at all times, and to cooperate in every way I can with the preparation of my case.

12. I declare that I am (check one of the following and sign on signature line): a citizen of the United States OR an alien eligible for services with appropriate documentation (must attach documentation).

SIGNATURE OF CLIENT

13. Everything I've told you about me and about my case is true as far as I know.

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14. A copy of this form has been given to me to keep. NOTE: There is no agreement to represent you until the retainer is signed by an LSEM attorney.

Signature of LSEM Attorney _____ Signature of Client _____
Title: _____ Address: _____

Date: _____

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City: _____ State: _____ Zip: _____

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Telephone number: _____

Date: _____

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**PROHIBITIONS ON ADVOCACY EFFORTS INTENDED TO INFLUENCE
CERTAIN LEGISLATIVE AND ADMINISTRATIVE ACTIVITIES:
PROHIBITED ADVOCACY TRAINING, PARTICIPATION IN PUBLIC
DEMONSTRATIONS AND RELATED ACTIVITIES AND ORGANIZING**
Restrictions on Certain Activities 45 CFR Part 1612

45 CFR 1612

I. LEGISLATIVE/ADMINISTRATIVE RULEMAKING PROHIBITIONS

A. Except as permitted by Sections B and C below, it is impermissible for any individual, while engaged in legal services activities funded by LSEM, to initiate or to participate in any effort:

1. that attempts to influence the passage or defeat of any legislation of constitutional amendment, or any initiative, referendum or similar procedure of the Congress, any state legislature or local council, or similar governing body acting in a legislative capacity;

2. that attempts to influence any provision in a legislative measure appropriating funds to, or defining or limiting the functions or authority of, LSEM (e.g., self-help lobbying);

3. that attempts to influence the conduct of oversight proceedings of any legislative body concerning LSEM;

4. that attempts to influence any provision in a legislative measure appropriating funds, or limiting the functions/authority of LSC, attempts to influence or the conduct of oversight proceedings concerning LSC;

54. that attempts to participate in or influence any rulemaking or influence the issuance, amendment, or revocation of any executive order (rulemaking is defined to include agency processes for formulating, amending, or appealing rules, regulations or guidelines of general applicability and future effect issued by the agency pursuant to Federal, State, or local

rulemaking procedures, including notice and comment rulemaking and adjudicatory proceedings that are formal adversarial proceedings used to formulate or modify an agency policy of general applicability and future effect);

65. that engages in any grassroots lobbying activity;

76. that pays for any personal service, advertisement, telegram, telephone, communication, letter, printed or written matter, administrative expense or related expense, associated with any activity prohibited in the five preceding paragraphs.

B. Notwithstanding the prohibitions outlined in A, it is permissible for any individual, while engaged in legal services activities funded by LSEM, to:

1. provide administrative representation for an eligible client in a proceeding that adjudicates the particular rights or interests of such eligible client or in negotiations directly involving that client's legal rights or responsibilities including prelitigation negotiation and negotiations in the course of litigation;

2. initiate or participate in litigation challenging agency rules, regulations, guidelines or policies unless otherwise prohibited by law or the Legal Services Corporation regulations;

3. communicate with a government agency for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations, practices or policies;

4. inform clients, other recipients, or attorneys representing eligible clients, about new or proposed statutes, executive orders or administrative regulations;

5. communicate directly or indirectly with the Legal Services Corporation for any purpose including commenting upon existing or proposed Legal Services Corporation rules, regulations, guidelines instructions and policies;

6. participate in meetings or serve on committees of bar associations, provided that no resources of LSEM are used to support prohibited legislative or rulemaking activities and that LSEM is not identified with activities of bar associations that include such prohibited activities;

7. advise a client of the client's right to communicate directly with an elected official;

8. participate in activities relating to the judiciary, including the promulgation of court rules, rules of professional responsibility and disciplinary rules, ~~or~~

~~9. participate as legal advisor to, as an LSEM representative to, or as a member of an organization, task force, consortium, advisory board, or committee, which has as its primary purpose improving service to LSEM clients, sharing information about community resources or needs, providing community legal education, or any other nonprohibited purpose.~~

C. Non-LSC funds of LSEM may be used by an employee:

1. to respond to a written request from a governmental agency or official thereof, elected official, legislative body, committee or member thereof, made to an employee or to a recipient to:

a) testify orally or in writing;

b) provide information which may include analysis of or comment upon existing or proposed rules, regulations or legislation, or drafts of proposed rules, regulations or legislation; or

~~e) testify before, make information available to, commissions, committees or advisory bodies; or~~

~~cd) participate in negotiated rulemaking.~~

2. Such participation must be made under the following conditions:

a) communications made in response to requests may be distributed by the employee only to the party or parties that made the request or to other persons or entities only to the extent that such distribution is required to comply with the requests;

b) no employee of LSEM shall solicit or arrange a request from any official to testify or to otherwise provide information in connection with legislation or rulemaking; and,

c) each employee shall maintain copies of all written requests received and any written responses made thereto and provide such requests and responses to the executive director.

3. Employees may use non-LSC funds to provide oral or written comments to an agency and its staff in a public rulemaking proceeding which includes notice and comment, rulemaking, and other public proceedings.

4. Employees may use non-LSC funds to contact or communicate with, respond to or request from, a state or local governmental agency, a state or local legislative body or committee, or a member thereof, regarding funding for LSEM.

II. ADVOCACY TRAINING

A. It is impermissible for any individual, while engaged in legal assistance activities funded by LSEM, to participate in or conduct a training program for the purpose of advocating for a particular public policy or encouraging a political activity, a labor or anti-labor activity, a boycott, picketing, a strike, or a demonstration, including the dissemination of information about such a policy or activity; or to train participants to engage in activities prohibited by the Act or other law.

B. Attorneys and paralegal may participate in any training program, including ~~skills, substantive and management training, which assist such employees to provide adequate~~ legal assistance to eligible clients or advise eligible clients as to the legal rights of the clients.

C. Employees of LSEM may participate in training activities intended to inform staff about what activities are prohibited by the LSC Act, other applicable federal law, or Legal Services Corporation regulations, guidelines or instructions.

III. PROHIBITIONS ON DEMONSTRATIONS, BOYCOTTS, STRIKES AND CERTAIN OTHER ACTIVITIES

A. It is impermissible for any individual, during working hours, while providing legal assistance or representation to LSEM clients or while using resources provided by the Legal Services Corporation or by private entities to:

1. participate in any public demonstration, picketing, boycott or strike except as permitted by law in connection with the employee's own employment situation; or
2. encourage, direct or coerce others to engage in such activities.

B. It is impermissible for any individual employed by LSEM at any time to engage in or encourage other to engage in any:

1. rioting or civil disturbance;
2. activity determined by a court to be in violation of an outstanding injunction of any court of competent jurisdiction; or
3. other illegal activity that is inconsistent with an employee's responsibilities under applicable law, Legal Services Corporation regulation, or the Rules of Professional Conduct promulgated by the Missouri Supreme Court.

C. Attorneys for LSEM may inform and advise a client about legal alternatives to litigation or the lawful conduct thereof and may take such action on behalf of a client as may be required by professional responsibilities or applicable law of the State of Missouri or any other applicable ordinances of the appropriate local jurisdictions within LSEM's service area.

IV. PROHIBITED ORGANIZING ACTIVITIES

A. It is impermissible for any employee, while engaged in legal assistance activities funded by the Legal Services Corporation or private entities, to initiate the formation, or to act as an organizer, of any association, federation, labor union, coalition, network, alliance, or any similar entity.

B. Employees may provide legal advice or assistance to eligible clients who desire to plan, establish or operate organizations, including preparing articles of incorporation and bylaws for such organizations. Employees may also provide legal advice or assistance to eligible community groups or organizations on both organizational issues and on substantive legal issues of interest to the organization.

LSEM will maintain documentation of expenditures of non-LSC funds for legislative and rulemaking activities permitted under paragraph I(C) of this policy in accordance with the instructions issued by the Legal Services Corporation. LSEM will comply with the record keeping requirements of 1612.10.

Policy On Class Actions (45 CFR 1617)

It is impermissible for any individual, while engaged in legal assistance activities funded by LSEM, to initiate or participate in any class action suit. For purposes of this policy, "class action suit" refers to a lawsuit filed as, or otherwise declared by a court having jurisdiction over the case to be, a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure or any Missouri statute.

This limitation does not preclude the representation of multiple parties or eligible groups (so long as it does not qualify as a class action, based upon the definition in 1617.2(a); nor does it proscribe the use of other relevant judicial or statutory procedures, including those related to: third-party practice; joinder; interpleader; intervention; consolidation; mandamus; declaratory judgment; or injunctive relief.

To initiate or participate in any class action means that any individual, while engaged in legal assistance activities funded by LSEM, may not be involved at any stage of a class action prior to or after an order granting relief, including acting as an amicus curiae, co-counsel or providing legal assistance to an individual client who seeks to intervene in, or challenge the adequacy of the representation of a class. Legal assistance may be provided to an individual who wishes to withdraw from or opt out of a class action but only to ensure that the individual client is not included in the class or that the class order does not apply to the individual client.

Initiating or participating in a class action does not include non-adversarial activities such as keeping informed concerning an order granting relief or explaining, clarifying, educating, or advising others about, the terms of an order granting relief.

Advocates who believe that they cannot comply with professional responsibilities imposed by The Missouri Bar unless they initiate or participate in a class action suit, or who are uncertain as

to the application of this limitation to particular circumstances, shall not proceed until they have discussed and resolved the matter with the executive director.

Policy On Priorities Process 45 CFR 1620

Due to insufficient resources to meet the legal needs of the low-income community, of necessity, the variety of any cases accepted within each of the priority areas will be determined on the basis of adequate resources, including funding, staffing, available technology, and on the basis of the specific case acceptance protocols within each substantive unit/project/office, which protocols are reviewed and revised as necessary, by the managing attorneys, in consultation with the Associate Directors, Director of Advocacy and Executive Director.

Through either the staff or the VLP, LSEM will continue to reach out to client-eligible individuals and populations who have special legal problems or special difficulties of access to legal services.

Procedures For Establishing Priorities In The Allocation Of Resources Of LSEM

Periodically, or at least every four (4) years, LSEM will conduct an appraisal of needs of its client community. The following procedures will be utilized in establishing priorities in the allocation of resources.

LSEM will conduct an effective appraisal of the needs of eligible clients in the geographic areas served by the program, and their relative importance, based on information received from potential or current eligible clients, served by and solicited in a manner reasonably calculated to obtain the attitude of all significant segments of the client population. The appraisal shall also include input from LSEM employees, board members, the private bar, and other interested persons, and to the extent feasible, should include outreach to eligible clients, which may include the use of such techniques as questionnaires and surveys. In addition to substantive legal problems, the appraisal shall address the need for outreach, training, and support services.

LSEM shall ensure an opportunity to participate by all significant segments of the client community and program employees in the setting of priorities, and in the annual review required by 45 CFR 1620.5, and provide an opportunity for comment by interested members of the public.

The following factors shall be among those considered by LSEM in establishing priorities:

- A. the suggested priorities promulgated by LSC;
- B. the appraisal described above;
- C. the population of eligible individual clients in the LSEM service area, including all significant segments of that population with special legal problems or special difficulties of access to legal services;
- D. the resources of LSEM;
- E. the availability of another source of free or low-cost legal assistance in a particular category of cases or matters;
- F. the availability of other sources of training, support, and outreach services;
- G. the relative importance of particular legal problems to the individual clients of LSEM;
- H. the susceptibility of particular problems to solution through legal processes;

- I. whether legal efforts by LSEM will complement other efforts to solve particular problems in the area served;
- J. whether legal efforts will result in efficient and economical delivery of legal services; and
- K. whether there is a need to establish different priorities in different parts of the LSEM service area.

LSEM will allocate resources consistent with the purposes and requirements of the LSC Act, regulations, guidelines and instructions, including 45 CFR 1620.3, and shall make a reasonable effort to provide that all potentially eligible clients in LSEM's service area have reasonably equal access to similar types of services. The types of services may vary so as to take into account different priorities in different parts of the service area, a higher incidence of a particular kind of legal problem, and the considerably higher costs of providing services or differences in individual client financial resources.

The LSEM Board of Directors shall review priorities annually. LSEM shall submit to LSC, and make available to the public, an annual report summarizing the review of priorities, the date of the most recent appraisal, the timetable for the future appraisal of needs and evaluation of priorities, mechanisms which will be utilized to ensure effective client participation in priority setting, and any changes in priorities. The report will also include the case acceptance policies and procedures for LSEM.

The following factors shall be among those considered in determining whether LSEM's priorities should be changed:

- A. the extent to which the objectives of the priorities have been accomplished;
- B. changes in the resources of LSEM;
- C. changes in the size, distribution or needs of the eligible client population;
- D. the volume of non-priority emergency cases or matters in a particular substantive area since the last annual priorities;

EMERGENCY PROCEDURES

In the case of emergency circumstances, the executive director or designee shall have the authority to add or delete program priorities. An emergency may include a case or matter requiring immediate legal action, circumstances involving the necessities of life, a significant risk to the health or safety of the client or immediate family members, or issues that arise because new and unforeseen circumstances, such as natural disasters or unanticipated changes in the law affecting large numbers of clients.

In determining an emergency, the following factors may be among those considered by the executive director or designee:

1. the time period in which action must be taken to protect the client's interests;
2. the severity of the consequences to the client if no action is taken;
3. the likelihood of success if urgent legal action is taken;
4. whether action must be taken immediately because of the applicable statute of limitations;

5. the capacity of another source of free or low-cost legal assistance to undertake the particular case; and the effect the problem presented will have on the client community.

The executive director or his designee must approve the handling of a case on an emergency basis (approval form attached hereto).

It is LSEM's policy to follow regulation 1620, which states:

PART 1620—PRIORITIES IN USE OF RESOURCES

Contents

- §1620.1 Purpose.
- §1620.2 Definitions.
- §1620.3 Establishing priorities.
- §1620.4 Establishing policies and procedures for emergencies.
- §1620.5 Annual review.
- §1620.6 Signed written agreement.
- §1620.7 Reporting.

Authority: 42 U.S.C. 2996f(a)(2); Pub. L. 104-208, 110 Stat. 3009; Pub. L. 104-194, 110 Stat. 1321.

Source: 62 FR 19408, Apr. 21, 1997, unless otherwise noted.

§1620.1 Purpose.

This part is designed to provide guidance to recipients for setting priorities and to ensure that a recipient's governing body adopts written priorities for the types of cases and matters, including emergencies, to which the recipient's staff will limit its commitment of time and resources.

§1620.2 Definitions.

(a) A case is a form of program service in which an attorney or paralegal of a recipient provides legal services to one or more specific clients, including, without limitation, providing representation in litigation, administrative proceedings, and negotiations, and such actions as advice, providing brief services and transactional assistance, and assistance with Individual Private Attorney Involvement (PAI) cases.

(b) A matter is an action which contributes to the overall delivery of program services but does not involve direct legal advice to or legal representation of one or more specific clients. Examples of matters include both direct services, such as community education presentations, operating pro se clinics, providing information about the availability of legal assistance, and developing written materials explaining legal rights and responsibilities; and indirect services, such as training, continuing legal education, general supervision of program services, preparing and disseminating desk manuals, PAI recruitment, intake when no case is undertaken, and tracking substantive law developments.

§1620.3 Establishing priorities.

(a) The governing body of a recipient must adopt procedures for establishing priorities for the use of all of its Corporation and non-Corporation resources and must adopt a written statement of priorities pursuant to those procedures, that determines the cases and matters which may be undertaken by the recipient.

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(b) The procedures adopted must include an effective appraisal of the needs of eligible clients in the geographic area served by the recipient, and their relative importance, based on information received from potential or current eligible clients that is solicited in a manner reasonably calculated to obtain the views of all significant segments of the client population. The appraisal must also include and be based on information from the recipient's employees, governing body members, the private bar, and other interested persons. The appraisal should address the need for outreach, training of the recipient's employees, and support services.

(c) The following factors shall be among those considered by the recipient in establishing priorities:

(1) The suggested priorities promulgated by the Legal Services Corporation;

(2) The appraisal described in paragraph (b) of this section;

(3) The population of eligible clients in the geographic areas served by the recipient, including all significant segments of that population with special legal problems or special difficulties of access to legal services;

(4) The resources of the recipient;

(5) The availability of another source of free or low-cost legal assistance in a particular category of cases or matters;

(6) The availability of other sources of training, support, and outreach services;

(7) The relative importance of particular legal problems to the individual clients of the recipient;

(8) The susceptibility of particular problems to solution through legal processes;

(9) Whether legal efforts by the recipient will complement other efforts to solve particular problems in the area served;

(10) Whether legal efforts will result in efficient and economic delivery of legal services; and

(11) Whether there is a need to establish different priorities in different parts of the recipient's service area.

§1620.4 Establishing policies and procedures for emergencies.

The governing body of a recipient shall adopt written policies and procedures to guide the recipient in undertaking emergency cases or matters not within the recipient's established priorities. Emergencies include those non-priority cases or matters that require immediate legal action to:

(a) Secure or preserve the necessities of life,

(b) Protect against or eliminate a significant risk to the health or safety of the client or immediate family members, or

(c) Address other significant legal issues that arise because of new and unforeseen circumstances.

§1620.5 Annual review.

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(a) Priorities shall be set periodically and shall be reviewed by the governing body of the recipient annually or more frequently if the recipient has accepted a significant number of emergency cases outside of its priorities.

(b) The following factors should be among those considered in determining whether the recipient's priorities should be changed:

(1) The extent to which the objectives of the recipient's priorities have been accomplished;

(2) Changes in the resources of the recipient;

(3) Changes in the size, distribution, or needs of the eligible client population; and

(4) The volume of non-priority emergency cases or matters in a particular legal area since priorities were last reviewed.

§1620.6 Signed written agreement.

All staff who handle cases or matters, or are authorized to make decisions about case acceptance, must sign a simple agreement developed by the recipient which indicates that the signatory:

(a) Has read and is familiar with the priorities of the recipient;

(b) Has read and is familiar with the definition of an emergency situation and the procedures for dealing with an emergency that have been adopted by the recipient; and

(c) Will not undertake any case or matter for the recipient that is not a priority or an emergency.

§1620.7 Reporting.

(a) The recipient shall report to the recipient's governing body on a quarterly basis information on all emergency cases or matters undertaken that were not within the recipient's priorities, and shall include a rationale for undertaking each such case or matter.

(b) The recipient shall report annually to the Corporation, on a form provided by the Corporation, information on all emergency cases or matters undertaken that were not within the recipient's priorities.

(c) The recipient shall submit to the Corporation and make available to the public an annual report summarizing the review of priorities; the date of the most recent appraisal; the timetable for the future appraisal of needs and evaluation of priorities; mechanisms which will be utilized to ensure effective client participation in priority-setting; and any changes in priorities.

LEGAL SERVICES OF EASTERN MISSOURI, INC.

Client Grievance Procedure (45 CFR 1621)

I. The Grievance Procedure

Each client or potential client has the right to complain about certain actions which they consider to be improper refusal to handle a case, improper handling of a case, or other improper treatment. This policy has been instituted to foster effective communication between the complainant and LSEM.

The procedures for complaints of those denied services are as follows:

A. At the initial intake stage or as soon thereafter as practical, applicants shall be informed of the right to file a grievance (may provide LSEM Brochure with "Notice of Grievance Procedure").

B. The complainant should first make the complaint to the managing attorney of the unit doing the intake.

1. The managing attorney has five (5) business days to resolve the complaint. If the complaint cannot be resolved, the complainant may confer with the executive director or the designee of the director.

C. The executive director or designee shall give the complainant a fair and prompt opportunity to present the complaint. The complaint may be in writing, orally, or both, depending on the choice of potential client. If the complaint is made orally, the oral complaint shall be recorded to protect against any discrepancies in said complaint. LSEM shall transcribe said recording into a brief written statement of the complaint which shall be included in the complaint file. The complainant shall have the right to review said transcribed statement for accuracy and sign off on the contents of the transcribed statement.

D. The executive director or designee shall give the complainant written notice of his/her findings and actions within ten (10) working days from the date of the complaint to the director or his/her designee.

E. If the executive director or designee can not resolve the applicant's complaint, to the extent practical, the complainant may confer with a member of the governing body.

The procedures for client complaints are as follows:

A. At the initial intake stage or as soon thereafter as practical, applicants shall be informed of the right to file a grievance (may provide LSEM Brochure with "Notice of Grievance Procedure").

B. The complainant should first make the complaint to his/her lawyer, or to the managing attorney of the unit.

C. If the complaint is not resolved within five (5) working days of the complaint, the complainant, if he/she wishes to pursue the complaint, shall take the matter to the appropriate managing attorney within five (5) working days from the date the complaint should have been resolved. The lawyer and/or managing attorney shall advise the complainant of this right.

D. If the matter is not resolved by the managing attorney within five (5) working days, the complainant may take the complaint to the executive director or his/her designee. The complaint shall be made within five (5) working days from the date the complaint should have been resolved by the lawyer and/or managing attorney.

E. The executive director or designee shall give the complainant a fair and prompt opportunity to present the complaint. The complaint may be in writing, orally, or both, depending on the choice of the client or potential client. If the complaint is made orally, the oral complaint shall be recorded to protect against any discrepancies in said complaint. LSEM shall transcribe said recording into a brief written statement of the complaint which shall be included in the complaint file. The complainant shall have the right to review said transcribed statement for accuracy and sign off on the contents of the transcribed statement.

F. The executive director or designee shall give the complainant written notice of his/her findings and actions within ten (10) working days from the date of the complaint to the director or his/her designee.

G. If the complainant is not satisfied with the action of the executive director or designee, he or she may file a complaint with the Grievance Committee of the Board of Directors. The complaint shall be made within ten (10) calendar days of his/her receipt of the findings of the executive director or the designee, provided his/her complaint falls within the purview of paragraph II below. The complaint may be filed either orally or in writing. If the complaint is filed orally, it shall be recorded and a written summary of the substance of the complaint shall be made. The complainant shall have the right to review the written summary for accuracy and sign off on the contents of the summary. The executive director or designee shall give the complainant notice of this right, along with the notice of his/her findings and actions.

H. Nothing herein shall interfere with the lawyer/client relationship.

I. Within five (5) working days of receipt of complainant's notice of dissatisfaction with the findings of the executive director or his/her designee, the executive director or designee shall forward to the Grievance Committee of the Board of Directors the following:

1. The complainant's written statement or the written summary of his/her oral statement.
2. The executive director's or designee's findings and conclusions.

J. The Grievance Committee of the Board of Directors or its designee shall, within fifteen (15) working days, afford the complainant an opportunity to make an oral statement, which shall be recorded for accuracy, to the committee or its designee. Complainant may have another person of his/her choosing present for said statement.

K. The decision of the Grievance Committee shall be rendered and a copy mailed to the executive director and the complainant within fifteen (15) working days of the date of the complainant's oral statement. This decision shall be final unless the complaint was based on a

charge of discrimination on the basis of race, color, religion, creed, sex, marital status, national origin, ancestry, citizenship, age, disability, sexual orientation, status as a veteran, other personal characteristics or relationships, or any other consideration prohibited by law.

L. In the event the complaint was based on any of the above cited factors, the complainant shall be advised that he/she may request a review of the decision by the Director of

Equal Opportunity at: Legal Services Corporation
3333 K St., NW, 3rd fl.
Washington, DC 20007 Phone: (202)295-1500

M. If the complaint is received concerning the manner and quality of legal assistance rendered by a private attorney pursuant to our PAI program under 45 CFR 1614, the complaint shall be processed in a manner consistent with LSEB's responsibilities under 45 CFR 1614.3(d)(3) and with applicable state and local rules of professional responsibility.

N. A file containing every complaint and a statement of its disposition shall be preserved for examination by LSC. The file shall include any written statement submitted by the complainant or transcribed by the recipient from a complainant's oral statement. (45 CFR 1621.4(d)).

Citizen/Eligible Alien Determination Form - Part 1626

REVISED 11/2014

Case No. _____ Date of Intake _____

1. U.S. Citizen.

Documentation:

U.S. Passport

Birth Certificate

U.S. Citizen ID Card (I-197 or I-197)

U.S. Naturalization Certificate

Baptismal Certificate

Notarized statement by third party,

(showing place of birth within U.S. and baptism within two (2) months after birth)

that client is a U.S. citizen with proof of third-party's U.S. citizenship

OR

2. Alien lawfully admitted for permanent residency.

Documentation:

Alien Registration Receipt Card (I-151, I-551, I-181 with approval stamp),

or order granting registry, suspension of deportation, cancellation of removal;

or adjustment of status from the INS (USCIS) (U.S. Citizenship and Immigration Services), an immigration judge, the BIA, or a federal court;

or I-327 Reentry Permit;

or I-94 with stamp indicating admission for lawful permanent residence;

or passport bearing Immigrant Visa or stamp indicating admission for lawful permanent residence;

or any verification from INS, USCIS, DHS (U.S. Department of Homeland Security) or other authoritative document, including online or email verification.

OR

3. H-2A Workers and H-2B Forestry Workers. LSEM follows §1626.11 H-2 agricultural and forestry workers

(a) Nonimmigrant agricultural workers admitted to, or permitted to remain in, the United States under

the provisions of section 101(a)(15)(h)(i)(a) of the INA (8 U.S.C. 1101(a)(15)(h)(i)(a)), commonly called H-2A agricultural workers, may be provided legal assistance regarding the matters specified in paragraph (c) of this section.

(b) Nonimmigrant forestry workers admitted to, or permitted to remain in, the United States under the provisions of section 101(a)(15)(h)(i)(b) of the INA (8 U.S.C. 1101(a)(15)(h)(i)(b)), commonly called H-2B forestry workers, may be provided legal assistance regarding the matters specified in paragraph (c) of this section.

(c) The following matters which arise under the provisions of the worker's specific employment contract may be the subject of legal assistance by an LSC-funded program:

(1) Wages;

(2) Housing;

(3) Transportation, and

(4) Other employment rights as provided in the worker's specific contract under which the nonimmigrant worker was admitted.

Documentation:

H-2A Agricultural Workers, I-94 or passport stamped "H-2" or any verification from INS (USCIS) or other authoritative document (only for legal assistance relating to wages, housing, transportation, and other employment rights provided in the worker's contract).

H - 2B Forestry Workers, I-94 or passport stamped "H-2B" and any evidence of being employed in Forestry, or any verification from INS (USCIS) or other authoritative document (only for legal assistance relating to wages, housing, transportation, and other employment rights provided in the worker's contract).

OR

4. Married to a U.S. citizen, or parent of a U.S. citizen, or unmarried child under the age of 21 of a U.S. citizen and has filed an application that has not been rejected for:

a) Adjustment of status to lawful permanent residence (I-485) or (I-485A) or (I-512)

OR

b) Petition for Alien Relative (I-130)

OR

c) Application for Asylum or Withholding of Removal (I-589)

OR

d) Refugee/Asylee Relative Petition (I-730)

OR

e) Petition for Alien Fiancé (I-129F)

OR

f) Application for Immigrant Visa and Alien Registration (DS-230)

OR

g) Application for persons seeking V nonimmigrant status or extension of V status (I-539 or I-539A)

OR

h) Permanent residency directly with the American Consulate (OF-230)

OR

i) Suspension of deportation (I-256A or EOIR-40), or cancellation of removal (EOIR-42), family unity (I-817), or NACARA suspension or special rule cancellation and adjustment (I-881)

OR

j) Self-petition for widow(er) or abused spouse or child of US Citizen or Legal Permanent Resident (I-360)

OR

k) Application to Adjust Status from Temporary Permanent Resident Under INA 245A (I-698)

OR

l) Employment Authorization Document (card), Form I-688B or I-766, coded C9 or "Serves as I-512 Advance Parole", or a9, or a13, or A13, or a14, or A14, a15, or A15, c16, or C16, c8, or C8, c10, or C10, c21, or C21, c24, or C24

OR

m) Any verification from INS/USCIS/DHS, or other authoritative document

Required Documentation (check one from A and one from B):

A. Documentation:

Fee receipt or cancelled check showing application was filed with INS (USCIS) or immigration court

I-797 INS (USCIS) Notice of receipt or approval of any of above-listed applications

A filing stamp showing the application was filed

A copy of the application accompanied by a declaration or attestation signed by the immigrant, or the immigrant's attorney or legal representative for the application, that such form was filed

Proof may also be established by any verification from INS (USCIS) or other authoritative document, including online or email verification

AND one of the following:

B. Documentation:

Copy of alien's marriage certificate, accompanied by proof of spouse's U.S. citizenship.

Copy of U.S. birth certificate, baptismal certificate, adoption decree, or other documents demonstrating that the alien is the parent of a U.S. citizen.

Copy of U.S. birth certificate, baptismal certificate, adoption decree or other documents demonstrating that the alien is the unmarried child under the age of 21 of a U.S. citizen, accompanied by proof that the alien's parent is a U.S. citizen.

Copy of an I-130 (visa petition) or I-360 (self-petition) containing information that demonstrates that the alien is the spouse or parent of a U.S. citizen or unmarried child under the age 21 of a U.S. citizen, accompanied by proof of filing.

OR

5. Refugees, Asylees, aliens granted Withholding Of Removal, or Conditional Entrants:

Arrival/departure record (I-94) or passport marked "Section 207" or "refugee", or passport marked "Section 208" or "asylee".

Arrival/departure record (I-94) marked "conditional entrant".

Arrival/departure record (I-94) marked Section 243(h) or Section 241 (b) (3).

Court order granting withholding of removal, or deferral of deportation or removal from INS (USCIS), immigration judge, BIA, or a federal court.

Any verification from INS (USCIS) or other authoritative document, including online or email verification.

OR

6. §1626.4(a)(1)(i) and (a)(1)(ii). Alien or Alien's child suffered from Battery, Extreme Cruelty, Sexual Assault, or other U Visa Crime.

LSEM may provide related legal assistance to an alien, who might not otherwise be eligible for services, if such Alien (or the Alien's child) has been battered, or a victim of extreme cruelty, or a victim of sexual assault, or a victim of other "U Visa" crime in attached

list. The battery, extreme cruelty, sexual assault, or other U Visa crime need not have occurred in the United States, but must have violated a law of the United States in order for the alien applicant to be eligible for LSEM services under this section. Alien victims of battery, extreme cruelty, sexual assault, or other U Visa crime that violated a law of the United States, need not be present in the United States in order to be eligible for assistance.

§1626.2(h)(2). LSEM may also provide related assistance to the "U-Derivative" family members of the primary U-Visa applicant. If the primary U-Visa applicant is under the age of 21, the applicant's U-Derivative family members include the primary U-Visa applicant's spouse, children, and unmarried siblings under 18 years of age. If the Primary U-Visa applicant is over the age of 21, such applicant's U-Derivative family members include the spouse and children of such alien.

A. Documentation:

affidavits or unsworn written statements made by the alien
written summaries of statements or interviews of the alien taken by others, including LSEM staff
reports and affidavits from police, judges, and other court officials, medical personnel, school officials, clergy, social workers, other social service agency personnel
orders of protection or other legal evidence of steps taken to end abuse
evidence that a person sought safe haven in a shelter or similar refuge
photographs; documents; or other evidence of a series of acts that establish a pattern of qualifying abuse

OR

7. §1626.4(a)(2)(i) Victims of Severe Form of Trafficking in Persons in the United States.

LSEM may provide assistance, including but not limited to related legal assistance, to an alien who is the victim of a severe form of trafficking in persons, and who is in the United States, or to the T-Derivative family members of the primary trafficking victim. If the primary trafficking victim is under 21 years of age, the primary victim's T-Derivative family members include the victim's spouse, children, and unmarried siblings under 18 years of age. If the primary trafficking victim is 21 years of age or older, the primary victim's T-Derivative family members include the victim's spouse and children of such alien. T-Derivative family members also include any parent of the primary trafficking victim, or unmarried sibling under 18 years of age of the primary trafficking victim, or any adult or minor children of a T-Derivative family member, when the Secretary of Homeland Security, in consultation with the law enforcement officer investigating a severe form of trafficking, determines that such family members face a present danger of retaliation as a result of the primary trafficking victim's escape from the severe form of trafficking or cooperation with law enforcement.

Documentation:

affidavits or unsworn written statements made by the alien
written summaries of statements or interviews of the alien taken by others, including LSEM staff
reports and affidavits from police, judges, and other court officials, medical personnel, school officials, clergy, social workers, other social service agency personnel
orders of protection or other legal evidence of steps taken to end abuse
evidence that a person sought safe haven in a shelter or similar refuge
photographs; documents; or other evidence of a series of acts that establish a pattern

_____ of qualifying abuse

_____ A certification letter issued by the Department of Health and Human Services (HHS)

_____ Verification that the alien has been certified by calling the HHS trafficking verification line. (202) 401-5510 or (866) 401-5510

_____ An interim eligibility letter issued by HHS, if the alien was subjected to severe forms of trafficking while under the age of 18

_____ An eligibility letter issued by HHS, if the alien was subjected to severe forms of trafficking while under the age of 18

_____ **OR**

8. §1626.10 Special eligibility questions.

(a)(1) This part is not applicable to recipients providing services in the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, or the Republic of the Marshall Islands.

(2) All citizens of the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands residing in the United States are eligible to receive legal assistance provided that they are otherwise eligible under the Act.

(b) All Canadian born American Indians at least 50% Indian by blood are eligible to receive legal assistance provided they are otherwise eligible under the Act.

(c) Members of the Texas Band of Kickapoo are eligible to receive legal assistance provided they are otherwise eligible under the Act.

(d) An alien who qualified as a special agricultural worker and whose status is adjusted to that of temporary resident alien under the provisions of the Immigration Reform and Control Act ("IRCA") is considered a permanent resident alien for all purposes except immigration under the provisions of section 302 of 100 Stat. 3422, 8 U.S.C. 1160(g) (i.e. AFDC/TANF). Since the status of these aliens is that of permanent resident alien under section 101(a)(20) of the INA (8 U.S.C. 1101(a)(20)), these workers may be provided legal assistance. These workers are ineligible for legal assistance in order to obtain the adjustment of status of temporary resident under IRCA, but are eligible for legal assistance after the application for adjustment of status to that of temporary resident has been filed, and the application has not been rejected.

Documentation:

Verification that Special Agricultural Worker (SAW) application has been filed and not rejected (I-888, 888A, 888B or 786 card marked "210" or "274a 12 (a) (2) with evidence indicating eligibility under "210" or any verification from INS (USCIS) or other authoritative document)

(e) A recipient may provide legal assistance to indigent foreign nationals who seek assistance pursuant to the Hague Convention on the Civil Aspects of International Child Abduction and the Federal implementing statute, the International Child Abduction Remedies Act, 42 U.S.C. 11607(b), provided that they are otherwise financially eligible.

_____ **OR**

9. Other documentation (s) reviewed with the executive director:

_____ **Specify:**

_____ **DETERMINATION:** Eligible Ineligible

Statement for Emergency Representation

I believe I will be able to produce the document or documents specified above to verify my immigration status.

Date: _____ Signature: _____

Declaracion para Representacion en Emergencia

Yo creo que podré entregar el documento o los documentos especificados arriba para verificar mi estado de inmigracion.

Fecha: _____ Firma: _____

Citizen/Eligible Alien Determination Form - Part 1626

Case No. _____ Date of Intake _____

1. ~~U.S. Citizen.~~

- ~~Documentation:~~
- ~~U.S. Passport Birth Certificate~~
- ~~U.S. Citizen ID Card (I-197 or I-197) U.S. Naturalization Certificate~~
- ~~Baptismal Certificate Notarized statement by third party,~~
- ~~(showing place of birth within U.S. and baptism with proof of third party U.S.~~
- ~~within two (2) months after birth) citizenship, that client is a U.S. citizen.~~

~~OR~~

2. ~~Alien lawfully admitted for permanent residency, H 2A Workers, H 2B Forestry Workers, and Special Agriculture Workers Adjusted to Temporary Residency.~~

- ~~Documentation:~~
- ~~Alien Registration Receipt Card (I-151, I-551, I-181 with approval stamp);~~
- ~~or order granting registry, suspension of deportation, cancellation of removal;~~
- ~~or adjustment of status from the INS (USCIS) (U.S. Citizenship and Immigration~~
- ~~Services), an immigration judge, the BIA, or a federal court;~~
- ~~or I 327 Reentry Permit;~~
- ~~or I 94 with stamp indicating admission for lawful permanent residence;~~
- ~~or passport bearing Immigrant Visa stamp indicating admission for lawful permanent residence;~~
- ~~or any verification from INS or other authoritative document.~~
- ~~Verification that Special Agricultural Worker (SAW) application has been filed and not rejected (I-688,~~
- ~~688A, 688B or 766 card marked "210" or "274a-12 (a) (2) with evidence indicating eligibility under "210"~~
- ~~or any verification from INS (USCIS) or other authoritative document);~~
- ~~H 2A Agricultural Workers, I 94 or passport stamped "H 2" or any verification from INS (USCIS) or~~
- ~~other authoritative document (only for legal assistance relating to wages, housing, transportation, and other~~
- ~~employment rights provided in the worker's contract);~~
- ~~H 2B Forestry Workers, I 94 or passport stamped "H 2B" and any evidence of being employed in~~
- ~~Forestry, or any verification from INS (USCIS) or other authoritative document (only for legal assistance~~
- ~~relating to wages, housing, transportation, and other employment rights provided in the worker's contract.~~
- ~~Passport with immigrant visa stamped in passport.~~

LSEM follows §1626.11 - H-2 agricultural and forestry workers.

(a) Nonimmigrant agricultural workers admitted to, or permitted to remain in, the United States under the provisions of section 101(a)(15)(h)(i)(a) of the INA (8 U.S.C. 1401(a)(15)(h)(i)(a)), commonly called H-2A agricultural workers, may be provided legal assistance regarding the matters specified in paragraph (c) of this section.

(b) Nonimmigrant forestry workers admitted to, or permitted to remain in, the United States under the provisions of section 101(a)(15)(h)(i)(b) of the INA (8 U.S.C. 1401(a)(15)(h)(i)(b)), commonly called H-2B forestry workers, may be provided legal assistance regarding the matters specified in paragraph (c) of this section.

(c) The following matters which arise under the provisions of the worker's specific employment contract may be the

~~subject of legal assistance by an LSC-funded program;~~

~~(1) Wages;~~

~~(2) Housing;~~

~~(3) Transportation; and~~

~~(4) Other employment rights as provided in the worker's specific contract under which the nonimmigrant worker was admitted.~~

~~OR~~

~~3. Married to a U.S. citizen, parent of a U.S. citizen, or unmarried child under the age of 21 of a U.S. citizen and has filed an application that has not been rejected for:~~

~~a) adjustment of status (I-485)~~

~~OR~~

~~b) Petition for Alien Relief (I-130),~~

~~OR~~

~~c) Application for Asylum and Withholding of Removal (I-589)~~

~~OR~~

~~d) Refugee/Asylee Relative Petition (I-730)~~

~~OR~~

~~e) Petition for Alien Fiancé (I-129F)~~

~~OR~~

~~f) Application for Immigrant Visa and Alien Registration (DS-230)~~

~~OR~~

~~g) Application to Extend/Change Non-immigration Status (I-539)~~

~~OR~~

~~h) Permanent residency directly with the American Consulate (OF-230)~~

~~OR~~

~~i) Suspension of deportation (I-256A or EOIR 40), or cancellation of removal (EOIR-42), family unity (I-817), or NACARA suspension or special rule cancellation and adjustment (I-881)~~

~~OR~~

~~_____ j) Self-petition for widow(er) or abused spouse or child (I-360)~~

~~_____ OR~~

~~_____ k) Any verification from INS (USCIS) or other authoritative document.~~

Required Documentation (check one from A and one from B):

~~_____ A. Documentation:~~

~~_____ Fee receipt or cancelled check showing application was filed with INS (USCIS) or immigration court.~~

~~_____ Notice of receipt of application from INS (USCIS)~~

~~_____ A filing stamp showing the application was filed.~~

~~_____ A copy of the application accompanied by a declaration or attestation signed by the immigrant, or the immigrant's attorney or legal representative for the application, that such form was filed.~~

~~_____ Proof may also be established by any verification from INS (USCIS) or other authoritative document.~~

~~_____ AND one of the following:~~

~~_____ B. Documentation:~~

~~_____ Copy of alien's marriage certificate, accompanied by proof of spouse's U.S. citizenship.~~

~~_____ Copy of U.S. birth certificate, baptismal certificate, adoption decree, or other documents demonstrating that the alien is the parent of a U.S. citizen.~~

~~_____ Copy of U.S. birth certificate, baptismal certificate, adoption decree or other documents demonstrating that the alien is the unmarried child under the age of 21 of a U.S. citizen, accompanied by proof that the alien's parent is a U.S. citizen.~~

~~_____ Copy of an I-130 (visa petition) or I-360 (self-petition) containing information that demonstrates that the alien is the spouse or parent of a U.S. citizen or unmarried child under the age 21 of a U.S. citizen, accompanied by proof of filing.~~

~~_____ OR~~

4. Refugees, asylees, granted withholding of removal and conditional entrants:

~~_____ Arrival/departure record (I-94) or passport marked "Section 207" or "refugee", or passport marked "Section 209" or "asylee".~~

~~_____ Arrival/departure record (I-94) marked "conditional entrant".~~

~~_____ Arrival/departure record (I-94) marked Section 243(h) or Section 241 (b) (3).~~

~~_____ Court order granting withholding or deferral of deportation or removal from INS (USCIS), immigration judge, BIA, or a federal court.~~

_____ Any verification from INS (USCIS) or other authoritative document.

_____ OR

5. _____ An alien, who might not otherwise be eligible for services, who has been _____ battered, a victim of extreme cruelty, a victim of sexual assault, a victim of other "U-Visa" crime in attached list, or trafficking in the United States.

_____ A. Documentation:

_____ Police report

_____ Order of Protection

_____ Certification by the appropriate government agency

_____ Application for T-Visa or U-Visa which has not been denied

_____ Affidavit of potential client and corroborating witness

_____ OR

6.

681629.10 - Special eligibility questions.

~~(1) This part is not applicable to recipients providing services in the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, or the Republic of the Marshall Islands.~~

~~(2) All citizens of the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands residing in the United States are eligible to receive legal assistance provided that they are otherwise eligible under the Act.~~

~~(3) All Canadian-born American Indians at least 50% Indian by blood are eligible to receive legal assistance provided they are otherwise eligible under the Act.~~

~~(4) Members of the Texas Band of Kickapoo are eligible to receive legal assistance provided they are otherwise eligible under the Act.~~

~~(5) An alien who qualified as a special agricultural worker and whose status is adjusted to that of temporary resident alien under the provisions of the Immigration Reform and Control Act ("IRCA") is considered a permanent resident alien for all purposes except immigration under the provisions of section 302 of 100 Stat. 3422, 8 U.S.C. 1180(e). Since the status of these aliens is that of permanent resident alien under section 101(a)(20) of the INA (8 U.S.C. 1101(a)(20)), these workers may be provided legal assistance. These workers are ineligible for legal assistance in order to obtain the adjustment of status of temporary resident under IRCA, but are eligible for legal assistance after the application for adjustment of status to that of temporary resident has been filed, and the application has not been rejected.~~

~~(6) A recipient may provide legal assistance to indigent foreign nationals who seek assistance pursuant to the Hague Convention on the Civil Aspects of International Child Abduction and the Federal Implementing statute, the International Child Abduction Remedies Act, 42 U.S.C. 11407(b), provided that they are otherwise financially eligible.~~

_____ OR

_____ 7. Other documentation (e) reviewed with the executive director:

_____ Specify:

_____ DETERMINATION: _____ Eligible _____ Ineligible

Statement for Emergency Representation

_____ I believe I will be able to produce the document or documents specified above to verify my immigration status.

Date: _____ Signature: _____

Declaración para Representación en Emergencia

_____ Yo creo que podré entregar el documento o los documentos especificados arriba para verificar mi estado de inmigración.

Fecha: _____ Firma: _____



Legal Services Corporation
America's Answer For Social Justice

PROGRAM LETTER 05-2
(Superseding Program Letter 02-5)

TO: All LSC Program Directors
FROM: Helaine M. Barnett, President
DATE: October 6, 2005
RE: Eligibility of Immigrant Victims of Seven Forms of Trafficking and Family Members for Legal Services

President
Helaine M. Barnett
Executive Director
Frank B. Goodspeed
Johnnie M. Smith, III
Chairman
LARRY S. BARRY
Executive Director
Mary O'Neil
President
Thomas A. Frazier
John F. Frank, III
Executive Director
William J. Moran
Executive Director
Joseph J. Sweeney, III
Executive Director
Michael S. Torrey
Executive Director
Thomas H. Wilson
Executive Director
Joseph J. Sweeney, III
Executive Director
Richard A. Sade
Executive Director
William J. Moran
Executive Director

Introduction

This Program Letter defines those situations where, by virtue of the Trafficking Victims Protection Act of 2000 (TVPA) (P.L. No. 106-386) as amended by the Trafficking Victims Protection Reauthorization Act of 2003, Legal Services Corporation (LSC) grantees are authorized to use either LSC or non-LSC funds to represent individuals that the grantees would otherwise be unable to represent due to the strict eligibility provisions of 45 CFR 1626. This Program Letter supersedes Program Letter 02-5, incorporates the 2003 amendments to include provision of legal services to certain family members of victims of trafficking, and clarifies the permissibility and limits of providing legal services to victims and family members.

The Trafficking Victims Protection Reauthorization Act of 2003 amended the TVPA by expanding its coverage to include certain family members of victims. The trafficking of women, children and men into the United States for sex slavery, sweatshop labor, involuntary domestic servitude, and migrant agricultural labor is estimated to affect between 14,500 and 17,500 individual victims annually. Congress enacted the TVPA in October 2000 to address this problem. Section 107(b)(1)(B) allows victims of trafficking to be determined to be eligible for legal assistance from LSC grantees without regard to their immigration status. The 2003 Reauthorization expands permissible representation by LSC grantees to include certain family members of victims of trafficking.

Under the statutory provisions of the TVPA, as amended, LSC grantees may represent victims of trafficking and their family members without regard to their immigration status as set forth in this Program Letter. Such representation and legal services may include assistance in obtaining certification and/or a visa as well as providing assistance with other legal issues. The scope of permissible representation is summarized below and explained in greater detail in the question-answer format that follows.

FOR FURTHER INFORMATION, CONTACT:
Helaine M. Barnett, President
LSC
Washington, DC 20002
202-462-2000

Policy On Dues Payments and Subgrants

45 CFR Part 1627

Payment of Mandatory Bar Dues With Legal Services Corporation Funds

A. Except as provided in paragraph B, LSEM will not use funds provided by the Legal Services Corporation to pay dues to any private or nonprofit organization, whether on behalf of the program or an individual employed by the program. A dues payment is a payment to an organization on behalf of the program or an individual employed by the program to be a member of the organization, or to acquire voting or participatory rights in the organization.

B. LSEM will pay the dues to The Missouri Bar on behalf of the attorneys employed by the program. It may use Legal Services Corporation funds to pay such dues because the payment of such dues is mandated as a requirement of the practice of law by the Missouri Supreme Court.

Payment of Dues with non-Legal Services Corporation Funds

LSEM will use non-Legal Services Corporation funds to pay dues on behalf of the program or its employees to organizations designated by the executive director.

Regarding subgrants, dues, certain contributions and transfers: It is LSEM's policy to follow regulation 1627. Listed below:

§1627.1 Purpose.

In order to promote accountability for Corporation funds and the observance of the provisions of the Legal Services Corporation Act and the Corporation's regulations adopted pursuant thereto, it is necessary to set out the rules under which Corporation funds may be transferred by recipients to other organizations (including other recipients).

§1627.2 Definitions.

(a) Recipient as used in this part means any recipient as defined in section 1002(6) of the Act and any grantee or contractor receiving funds from the Corporation under section 1008(a)(1)(B) or 1008(a)(3) of the Act.

(b)(1) Subrecipient shall mean any entity that accepts Corporation funds from a recipient under a grant contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient's programmatic activities. Such activities would normally include those that might otherwise be expected to be conducted directly by the recipient itself, such as representation of eligible clients, or which provide direct support to a recipient's legal assistance activities or such activities as client involvement, training or state support activities. Such activities would not normally include those that are covered by a fee-for-service arrangement, such as those provided by a private law firm or attorney representing a recipient's clients on a contract or fiduciary basis, except that any such arrangement involving more than \$25,000 shall be included. Subrecipient activities would normally also not include the provision of goods or services by vendors or consultants in the normal course of business if such goods or services would not be expected to be provided directly by the recipient itself, such as auditing or business machine purchase and/or maintenance. A single entity could be a subrecipient with respect to some activities it conducts for a recipient while not being a subrecipient with respect to other activities it conducts for a recipient.

(2) Subgrant shall mean any transfer of Corporation funds from a recipient which qualifies the organization receiving such funds as a subrecipient under the definition set forth in paragraph (b)(1) of this section.

(c) Membership fees or dues as used in this part means payments to an organization on behalf of a program or individual to be a member thereof, or to acquire voting or participatory rights therein.

48 FR 54208, Nov. 30, 1983, as amended at 61 FR 45754, Aug. 29, 1996; 62 FR 19418, Apr. 21, 1997

§1627.3 Requirements for all subgrants.

(a)(1) All subgrants must be submitted in writing to the Corporation for prior, written approval. The submission shall include the terms and conditions of the subgrant and the amount of funds intended to be transferred.

(2) The Corporation shall have 45 days to approve, disapprove, or suggest modifications to the subgrant. A subgrant which is disapproved or to which modifications are suggested may be resubmitted for approval. Should the Corporation fail to take action within 45 days, the recipient shall notify the Corporation of this failure and, unless the Corporation responds within 7 days of the receipt of such notification, the subgrant shall be deemed to have been approved.

(3) Any subgrant not approved according to the procedures of paragraph (a)(2) of this section shall be subject to audit disallowance and recovery of all the funds expended pursuant thereto.

(4) Any subgrant which is a continuation of a previous subgrant and which expires before March 1, 1984 may be extended until March 1, 1984, if a new subgrant agreement is submitted for approval to the Corporation by January 15, 1984. In the event the Corporation refuses to allow the renewal of any such submitted agreement, the recipient shall be permitted to allow the subrecipient 60 days' funding to close out the subgrant activities.

(b)(1) A subgrant may not be for a period longer than one year, and all funds remaining at the end of the grant period shall be considered part of the recipient's fund balance.

(2) All subgrants shall contain a provision providing for their orderly termination in the event that the recipient's funding is terminated or the recipient is not refunded and for suspension of activities if the recipient's funding is suspended.

(3) A substantial change in the work program of a subgrant or an increase or decrease in funding of more than 10% shall require Corporation approval pursuant to the provisions of section 1627.3(a). Minor changes of work program or changes in funding of less than 10% shall not require prior Corporation approval, but the Corporation shall be informed in writing thereof.

(c) Recipients shall be responsible for ensuring that subrecipients 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. Any funds delegated by a recipient to a subrecipient shall be subject to the audit and financial requirements of the Audit and Accounting Guide for Recipients and Auditors. The delegated funds may be separately disclosed and accounted for, and reported upon in the audited financial statements of a recipient; or such funds may be included in a separate audit report of the subrecipient. The relationship between the recipient and subrecipient will determine the proper method of financial reporting in accordance with generally accepted accounting principles. A subgrant agreement may provide for alternative means of assuring the propriety of subrecipient expenditures, especially in instances where a large organization receives a small subgrant. If such an alternate means is approved by the Audit Division of the Corporation, the information provided thereby shall satisfy the recipient's annual audit requirement with regard to the subgrant funds.

(d) The recipient shall be responsible for repaying the Corporation for any disallowed expenditures by a subrecipient. Irrespective of whether the recipient is able to recover such expenditures from the subrecipient.

(e) To assure subrecipient compliance with the Act, Congressional restrictions having the force of law, Corporation Regulations (45 CFR chapter XVI), and Corporation Guidelines or Instructions, contracts between a recipient and a subrecipient shall provide for the same oversight rights for the Corporation with respect to subrecipients as apply to recipients.

[48 FR 54209, Nov. 30, 1983, as amended at 49 FR 1703, Jan. 13, 1984]

§1627.4 Membership fees or dues.

(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 governmental organization to engage in a profession, or to the payment of membership fees or dues from non-LSC funds.

[82 FR 19418, Apr. 21, 1997]

§1627.5 Contributions.

Any contributions or gifts of Corporation funds to another organization or to an individual are prohibited.

§1627.6 Transfers to other recipients.

(a) The requirements of §1627.3 shall apply to all subgrants by one recipient to another recipient.

(b) The subrecipient shall audit any funds subgranted to it in its annual audit and supply a copy of this audit to the recipient. The recipient shall either submit the relevant part of this audit with its next annual audit or, if an audit has been recently submitted, submit it as an addendum to that recently submitted audit.

(c) In addition to the provisions of §1627.3(d), the Corporation may hold the subrecipient directly responsible for any disallowed expenditures of subgrant funds. Thus, the Corporation may recover all of the disallowed costs from either recipient or subrecipient or may divide the recovery between the two; the Corporation's total recovery may not exceed the amount of expenditures disallowed.

(d) Funds received by a recipient from other recipients in the form of fees and dues shall be accounted for and included in the annual audit of the recipient receiving these funds as Corporation funds.

§1627.7 Tax sheltered annuities, retirement accounts and pensions.

No provision contained in this part shall be construed to affect any payment by a recipient on behalf of its employees for the purpose of contributing to or funding a tax sheltered annuity, retirement account, or pension fund.

[62 FR 19418, Apr. 21, 1997]

§1627.8 Recipient policies, procedures and recordkeeping.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part and shall maintain records sufficient to document the recipient's compliance with this part.

[62 FR 19418, Apr. 21, 1997]

Policy On Representation In Certain Eviction Proceedings

45 CFR Part 1633

It is impermissible for any individual, while engaged in legal services activities funded by LSEM, to defend any person in a proceeding to evict that person from a public housing project if:

A. The person has been charged with or has been convicted of the illegal possession, sale, distribution, or manufacture of a controlled substance with the intent to sell or distribute; and

B. The eviction proceeding is brought by a public housing agency on the basis that such illegal drug activity for which the person has been charged, or for which the person has been convicted, did or does threaten the health or safety of other tenants residing in the public housing project or employees of the public housing agency.

For purposes of this policy, a person is considered to have been "charged with" engaging in illegal drug activities if a criminal proceeding has been instituted against such person by a governmental entity with authority to initiate such proceeding and such proceeding is pending.

LSEM will maintain a list of all cases which involve an eviction from public housing and there is an allegation of drug sale, distribution or manufacture of drugs, or possession of drugs with intent to sell or distribute and each client's file shall include documentation that demonstrates why representation was permissible. Use the attached form to get approval for representation in appropriate cases.

Policy On Identification Of Client And Precomplaint Statement Of Facts 45 CFR 1636

(Note: This Part Does Not Apply To Pro Bono Attorneys
But Does Apply To Judicare And Contract Attorneys)

Any individual, while engaged in legal services activities funded by LSEM, may not file a complaint in a court of law or engage in ~~pre-litigation~~ ~~complaint~~ settlement negotiations on behalf of a client who is a potential plaintiff in the proposed action and who has authorized LSEM to file suit in the event that the settlement negotiations are unsuccessful, unless:

1. Each ~~the~~ proposed plaintiff is identified by name in the complaint, or in a separate notice provided to the defendant against whom the complaint is filed where disclosure in the complaint would be contrary to law or court rules or practice. AND to prospective defendants in the pre-litigation settlement negotiations. However, such identification of each plaintiff by name is not required if a court of competent jurisdiction has entered an order protecting the proposed plaintiff from such disclosure based on a finding, after notice and an opportunity for a hearing on the matter, of probable, serious harm to the plaintiff if the disclosure is not prevented, ~~and~~ ~~and~~
2. The proposed plaintiff has signed a dated, written statement in English and, if necessary, in a language other than English that the client understands, enumerating the particular facts supporting the proposed complaint, insofar as they are known to the client when the statement is signed.

A signed statement prepared for the purpose of complying with this policy shall not include any client information that is not otherwise to be disclosed as the basis of the complaint or of a pre-complaint demand letter for relief. The statement shall assert the purpose of its

preparation and shall state that it does not operate as a waiver of the attorney-client privilege or work product privilege for any purpose other than compliance with Section 504(a)(8) of Public Law 104-134, 119 Stat. 1321 (1996).

The prepared statement shall be retained in the client's file and a copy shall be either forwarded to the executive director who shall maintain a file of all such statements in a central location, or kept in a central location where it is accessible by the executive director's office. Such statement shall not be disclosed except to the Legal Services Corporation or to a federal department or agency auditing or monitoring LSEM in compliance with Section 509 of Public Law 104-134.

In the event of an emergency, when staff reasonably believes that delay is likely to cause harm to a significant safety, property or liberty interest of the client, staff may proceed with the proposed litigation or negotiation without a signed statement of facts, provided that the statement is prepared and signed as soon as possible thereafter. For each case where the statement of facts was delayed because of an emergency, the client's file shall include a statement of the nature of the emergency.

A signed statement of facts is not required to be prepared when representation involves a client who is a defendant; who is involved in an administrative proceeding that responds to an action taken by a government agency, such as unfavorable disability, welfare, unemployment, or housing authority decisions; for whom only brief service, advice, and/or referral activities are provided; or when contact with another party is preliminary to negotiation or is not made in contemplation of litigation, such as to clarify the facts to gauge the potential for later negotiation, or to resolve a matter on which LSEM does not intend to pursue litigation.

**SAMPLE STATEMENT OF FACTS REQUIRED BY PUBLIC LAW
104-134, SECTION 504(a)(8) – 45 CFR 1636**

Plaintiff _____, signed this statement of facts to comply with the requirements of Section 504(a)(8) of Public Law 104-134. This statement was written by plaintiff's attorney in contemplation of litigation. Plaintiff has instructed LSEM to prepare a complaint and the facts contained in this statement form the basis of the complaint. Plaintiff intends to assert and does not waive any right to assert attorney-client privilege or work product privilege in signing this statement. Plaintiff intends for this statement to be retained in LSEM's files and that it not be released to any person except for the auditors and monitors described in federal law or pursuant to other applicable court rules or a court order.

[Set out a brief statement of facts or include factual allegations of complaint or factual statement in proposed demand letter.]

Signed: _____
Date: _____

(client signature)

Policy On Disclosure Of Case Information 45 CFR 1644

Any LSEM employee who files a cause of action in any court for a client in the course of LSEM activities must provide certain information regarding each case filed. Beginning January 1, 1998, the following information must be reported for any case filed:

- a. The names and full addresses of all parties to the case, unless the information is protected by an order or rule of court or by state or federal law, or if the attorney believes that revealing the information would put the client at risk of physical harm;
- b. A description of the nature of the cause of action (e.g., bankruptcy, dissolution, breach of warranty);
- c. The name and full address of the court where the case is filed; and
- d. The cause number assigned to the case by the court.

Each staff attorney is responsible for timely reporting of the information required to be disclosed.

This disclosure requirement applies when a case is first filed in court. Appeals would be included only if LSEM did not represent the client in the court below. Judicial appeals of administrative actions are covered when those appeals are the first filed in court.

LSEM must disclose this information to the Legal Services Corporation (LSC) by filing semi-annual reports. Upon request, LSEM must disclose the information to the public. LSEM may charge copying and mailing costs for the disclosure of the information.

While most jurisdictions would make this information available to the public because it is a matter of public record, attorneys may wish to inform clients of this disclosure of information prior to filing the cause of action.

This policy relates only to LSEM staff, and the disclosure requirement does not include cases handled by private attorneys who accept cases through LSEM's volunteer or judicare

programs. However, this case disclosure policy does relate to any cases filed pursuant to subgrants (if any) under 45 CFR part 1627 for the direct representation of eligible clients, except for subgrants for private attorney involvement activities under part 1614 of this chapter.

Should a member of the public inquire about getting a copy of the case disclosure information, that request must be forwarded to the executive director or his/her designee prior to a release of the information.



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Pursuing Justice,
Strengthening Lives

Daniel K. Glazier
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February 5, 2015

Lora M. Rath, Director
Office of Compliance and Enforcement
Legal Services Corporation
3333 K Street, NW, 3rd floor
Washington, D.C. 20007
Via email to rathl@lsc.gov

Re: OCE Compliance Review Visit Recipient No. 526020

Dear Ms. Rath:

I am writing in response to your letter of January 8, 2015, enclosing the Draft Report for the week of September 8, 2014 on-site compliance review of Legal Services of Eastern Missouri. I very much appreciate the opportunity to comment on the Draft Report.

First, we greatly appreciate the professionalism with which Joseph Green and his staff conducted their site visit. Mr. Green and his staff were thorough and diligent. We also appreciated the training by Mark Freedman and Tamara Gustave on Part 1612.

I would also note that we have already started changing our practices and written policies to adopt many of the OCE team's recommendations. Indeed, we started making the changes even before the team had left St. Louis. We very much appreciate the team's feedback.

My comments on the Draft Report are attached.

Sincerely,

Daniel K. Glazier

Executive Director & General Counsel

Daniel K. Glazier, Executive Director and General Counsel



Legal Services of Eastern Missouri is proud to be a Legal Services Corporation (LSC) grantee, and we comply with all LSC conditions and prohibitions in acceptance of all funds.



Legal Services Corporation Office of Compliance and Enforcement, Compliance Review of
Legal Services of Eastern Missouri (LSEM) on September 8-12, 2014

LSEM Response to OCE Draft Report of 1-8-2015

Legal Services of Eastern Missouri ("LSEM") is in agreement with the all of the OCE findings contained in the Draft Report Executive Summary: Findings 1-46.

We plan to execute all the OCE team's Required Corrective Actions listed on pages 59-60, as follows:

Finding #2: LSEM will ensure that all walk-in clients comply with screening and documentation requirements and execute proper citizenship attestations. LSEM has already ceased using the form with "yes" pre-checked for US citizenship.

Finding #3: LSEM has taken the steps to revise its financial eligibility policy and sent a draft to LSC for its review.

Finding #5: LSEM has taken the steps to revise its policy regarding 45 CFR Part 1626 on restrictions on legal assistance to aliens and sent a draft to LSC for its review.

Finding #7: LSEM has taken the steps to revise its policy regarding 45 CFR 1636 for Client identity and statement of facts and sent a draft to LSC for its review.

Finding #8: LSEM has taken the steps to revise its policy regarding 45 CFR 1620 about Priorities in use of resources to comply with 45 CFR 1620.4 (Establishing policies and procedures for emergencies), and sent a draft to LSC for its review.

Finding #13: LSEM will take the steps to revise its policy regarding 45 CFR 1604 (Outside Practice of Law) to comply with 45 CFR 1604.3, and will send a draft to LSC for its review.

Finding #15: LSEM has taken the steps to revise its policy regarding 45 CFR 1609 (Fee-generating cases) to comply with 45 CFR Part 1609, and sent a draft to LSC for its review.

Finding #17: LSEM will re-train staff on cases having the necessary documentation to identify the legal assistance provided for both PAI and staff cases, and on the proper closing codes from the CSR Handbook. LSEM notes that it offers refresher training to staff on closing codes and closing procedures every year.

Finding #18: LSEM will modify its policy to comply with 45 CFR Part 1627 regarding:

- Section 1627.3 - the requirements to establish a sub grant;
- Section 1627.5 - the prohibition on contributions;
- Section 1627.6 - the requirements governing transfers to another LSC recipient;
and
- Section 1627.7 - the authorization of LSEM payment(s) to tax sheltered annuities.

Finding #21: LSEM has taken the steps to revise its policy regarding 45 CFR 1612 (Restriction on lobbying and certain other activities) to comply with 45 CFR Part 1612.11, and sent a draft to LSC for its review.¹

Finding #25: LSEM has taken the steps to revise its policy regarding 45 CFR 1633 (Restriction on representation in certain eviction proceedings) to comply with 45 CFR Part 1633, and sent a draft to LSC for its review.

Finding #30: LSEM has taken the steps to revise its policy regarding 45 CFR 1644 (Disclosure of case information) to comply with 45 CFR Part 1644.5, and sent a draft to LSC for its review.

Finding #38: Regarding bank reconciliations at LSEM being reviewed and approved by a responsible employee who is independent of the accounting function, LSEM has revised its policies and procedures to state that the Human Resource Director reviews the bank reconciliations prepared by the Director of Finance.

Finding #42: Regarding obtaining bids or having written justification for sole source suppliers for all purchases over \$5,000 and the bids and written justifications being maintained for future review, upon consultation with its IPA, LSEM has revised its policies and procedures to state that written quotes are required for all purchases in excess of \$10,000 (as compared to the previous \$5,000 figure). Each purchase is required to be fully documented by maintaining the bids received and the approvals given. Sole source purchases in excess of \$10,000 require written justification, instead of at the previously level of \$5,000. Going forward, LSEM will adhere to this policy.

¹ While LSEM has agreed to and continues to abide by all grant conditions and policies of LSC regarding Part 1612, it respectfully disagrees with the characterization of the Article in footnote 11 of the draft report. While LSC ultimately found an impermissible "attempt to influence," LSEM disagrees that the Article recommended that legal services programs and lawyers "take steps to support state legislative or executive action." Nevertheless, we will continue to adhere to LSC's findings, interpretations, and grant conditions.

LSEM has the following responses to the OCE team's eight Recommendations listed on page 58:

Finding #2 Recommendations: Regarding the three recommendations from Finding 2:

1. LSEM will give additional training to intake staff on the proper application of over-income factors,
2. LSEM has provided additional training regarding methods to verify applicant's eligible alien status, including when domestic violence is alleged and will train again on it.
3. LSEM will cease giving clients blank retainer agreements for them to fill in the scope of representation. However, LSEM notes that it does not believe this is a common practice at LSEM.

Finding #6 Recommendation: LSEM's procedure will be that staff will be retrained to have the description in the retainer of the scope of representation match the actual scope of representation provided and for the attorney to fill in the scope in terms of services to the client.

Finding #10 Recommendation: LSEM will conduct a staff training to review the various closing codes so that the best category is chosen and to review the application of the correct LSC closing codes. LSEM notes that it conducts refresher training on proper procedures in closing cases, including closing codes in the last quarter of each year, and that it reviews with staff the most common errors found during the annual self-inspection of cases process.

Finding #31 Recommendation: This has been accomplished. The accounting policies in the Operating Manual have been included in the Accounting Manual. The Board of Directors has reviewed the updated Accounting Manual and approved it on November 20, 2014.

Finding #36 Recommendation: Beginning with the first quarter of 2015, the Board Treasurer will begin reviewing the Executive Director's expense reports and credit card expenses on a quarterly basis.

Finding #43 Recommendation: This has been accomplished. LSEM's policies and procedures concerning the processing of payroll have been revised to state the following:

- A review of each payroll will be done before processing to verify hours, rates, or other bases of payment by reference to attendance records, employment authorizations, approved rate changes, etc. by someone not connected with the preparation or distribution of the payroll.
- The Human Resource Director performs this review.

Regarding other aspects of the OCE report, we have some clarifications to note in some descriptions of LSEM services:

1. On page 6, the report lists the types of civil cases for which LSEM provides legal assistance. That list should include also the area of Community Economic Development (CED), which helps entrepreneurs living with low-income and non-profits serving the LSEM target population.
2. On page 6, the report states that LSEM obtained no LSC migrant funding in 2013. We just wanted to note that LSEM has never sought LSC migrant funding and has not received any from LSC in any year.
3. The report lists a program as Complete Health Improvement Project (CHIP) (p. 11) and also lists a Medical-Legal program (p.12). However, they are one program. Currently the LSEM Medical-Legal program has funding through CHIPRA, which stands for Children's Health Insurance Program Reauthorization Act. Our program primarily helps children enroll in Medicaid or other low-cost health insurance. It is called "Connecting Kids to Coverage." Further, it is not staffed by the Associate Director of Client Services. There is one Project Manager attorney, a staff attorney and 1 health specialist. There is also an LSEM program funded to help adults sign up for insurance through the Marketplace, where one attorney provides those services. Perhaps that is the program referred to as CHIP on page 11 of your draft report. Staff members of both these programs work in collaboration with each other and with LSEM's Advocates for Family Health program.
4. In some of the programs described under Finding 2 about intake procedures (pp. 11-12), the report states that for LSEM's programs for Immigration, "Complete Health Improvement Project", Advocates for Family Health and Medical-Legal programs that "Case files are reviewed every two (2) months by the Deputy Director and the Associate Deputy Director of Client Services." There is not a position of Deputy Director at LSEM. It would be correct to state that the case files are reviewed every two months by the managing attorney/Project manager for each of these programs. The Associate Director of Client Services does case reviews with the managing attorneys' cases periodically.
5. The Immigration program (pp. 11) has intake shared by two (not one) intake specialists, both of whom are supervised by a Managing attorney.
6. Regarding the Advocates of Family Health staffing (pp. 11-12), there is one Managing Attorney who manages the program, plus three non-attorney advocates. The three non-attorney advocates conduct the intake for the program as described.
7. In Finding 21 on page 42, the Draft Report states "[i]n discussions with the ED, LSEM was of the belief and understanding that they had not been involved in any 45 CFR Part 1612 activities during the period of 2011 through 2013." However, to be clear, LSEM believes it had

not been involved in any impermissible 45 CFR Part 1612 activities during the period of 2011 through 2013.

We very much appreciate the work that OCE staff put into their on-site inspection of Legal Services of Eastern Missouri and the Draft Report that you have prepared. If you have any questions about any of the above, please give me a call.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Glazier", with a long horizontal flourish extending to the right.

Daniel K. Glazier
Executive Director & General Counsel