



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

Legal Aid Services of Oregon
Compliance Review
October 6-9, 2014

Recipient No. 938004

LSC Compliance Review Team

Lisa Moore Melton, LSC Program Counsel (Team Leader)
Craig Dober, LSC Program Counsel
William Sulik, LSC Program Counsel
Eugene Yuk, LSC Program Counsel
Deidre Hamlar, Temporary Employee
Ross Starek, Temporary Employee
R. Keith Thomas, Temporary Employee
Kathy Rudd Yeniscavich, Temporary Employee
Lewis Goldstone, LSC Fiscal Compliance Analyst
Kent Domogalla, Temporary Employee

I. SUMMARY OF FINDINGS

Finding 1: Cases reviewed and interviews conducted, as well as review of LASO's automated case management system ("ACMS") and post-visit information provided by LASO, evidenced that LASO now complies with Chapter III of the CSR Handbook (2008 Ed., as amended 2011).

Finding 2: Documents reviewed and interviews conducted, as well as review of post-visit information provided by LASO, evidenced that LASO substantially complies with LSC's intake and case management system requirements.

Finding 3: Cases and documents reviewed, as well as review of post-visit information provided by LASO, evidenced that LASO complies with the income eligibility documentation requirements of 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines ("FPG").

Finding 4: Cases and documents reviewed evidenced that LASO complies with the asset eligibility documentation requirements of 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

Finding 5: Review of LASO's policy and citizenship attestation formats evidenced that LASO complies with the requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens); however, cases reviewed evidenced that LASO does not comply with the documentation requirements of this regulation.

Finding 6: Cases and documents reviewed evidenced that LASO substantially complies with the requirements of 45 CFR § 1611.9 (Retainer agreements).

Finding 7: Cases and documents reviewed, as well as review of post-visit information provided by LASO, evidenced that LASO complies with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

Finding 8: Cases and documents reviewed, as well as review of post-visit information provided by LASO, evidenced that LASO complies with the requirements of 45 CFR § 1620.4 (Priorities in use of resources) and now complies with the requirements of 45 CFR § 1620.6 (Signed written agreements).

Finding 9: Cases reviewed evidenced that LASO substantially complies with the requirements of the CSR Handbook (2008 Ed., as amended 2011) (2008 Ed., as amended 2011), §§ 5.6 and 10.5 (Description of legal assistance provided).

Finding 10: Cases reviewed evidenced that LASO complies with Chapter VIII (Legal problem codes) and substantially complies with Chapter IX (Case closure categories) of the CSR Handbook (2008 Ed., as amended 2011).

Finding 11: Cases reviewed evidenced that LASO substantially complies with the requirements of the CSR Handbook (2008 Ed., as amended 2011) (2008 Ed., as amended 2011), §§ 3.3 and 10.3 (Dormancy and untimely closure of cases).

Finding 12: Cases reviewed evidenced that, with one (1) exception, LASO complies with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.2 (Single reporting of cases).

Finding 13: Documents reviewed and interviews conducted, as well as review of post-visit information provided by LASO, evidenced that LASO complies with the requirements of 45 CFR Part 1604 (Outside practice of law). LASO's revised outside practice of law policy complies with these requirements.

Finding 14: Cases, documents, and public materials reviewed, as well as interviews conducted evidenced that LASO complies with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 15: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 16: Documents reviewed and interviews conducted, as well as review of post-visit information provided by LASO, evidenced that LASO now complies with the requirements of 45 CFR § 1610.5 (Use of non-LSC funds and transfer of LSC funds).

Finding 17: Documents reviewed and interviews conducted evidenced that LASO does not comply with the requirements of former 45 CFR Part 1614 (Private Attorney Involvement).

Finding 18: Documents reviewed and interviews conducted evidenced that LASO now complies with the requirements of 45 CFR § 1627.4(a) (Prohibition against the use of LSC funds to pay non-mandatory membership fees or dues).

Finding 19: Documents reviewed and interviews conducted evidenced that LASO complies with the requirements of 45 CFR Part 1635 (Timekeeping requirement).

Finding 20: Cases and documents reviewed evidenced that LASO complies with the requirements of former 45 CFR Part 1642 (Attorneys' fees) and LSC's recordkeeping requirements.

Finding 21: Cases and documents reviewed, interviews conducted, as well as review of post-visit information provided by LASO, evidenced that LASO now complies with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities) and that its revised policy complies these requirements.

Finding 22: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on criminal representation and collateral attacks).

Finding 23: Cases and documents reviewed, as well as interviews conducted, evidenced that LASO complies with the requirements of 45 CFR Part 1617 (Class actions).

Finding 24: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 25: Cases and documents reviewed and interviews conducted, as well as review of post-visit information provided by LASO, evidenced that LASO complies with 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings) and that its revised policy complies with these requirements.

Finding 26: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies with the requirements of 45 CFR Part 1637 (representation of prisoners).

Finding 27: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 28: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing representation).

Finding 29: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies with 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: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies with the requirements of 45 CFR Part 1639 (Restriction on welfare reform).

Finding 31: Documents reviewed evidenced that LASO complies with the requirements of 45 CFR Part 1644 (Disclosure of case information).

Finding 32: Documents reviewed and interviews conducted evidenced that LASO complies with the requirements of 45 CFR § 1629.1 (Bonding of recipients).

Finding 33: Documents reviewed and interviews conducted evidenced that LASO complies with the recommendations contained in the Accounting Guide concerning financial management and oversight by a board of directors.

Finding 34: Documents reviewed and interviews conducted, as well as review of post-visit information provided by LASO, evidenced that LASO now complies with the recommendations contained in the Accounting Guide concerning internal controls and segregation of duties for cash receipts, cash disbursements, and bank reconciliations.

Finding 35: Documents reviewed and interviews conducted evidenced that LASO's accounting and financial reporting operations, with limited exceptions, compares favorably to LSC's Fundamental Criteria of an Accounting and Financial Reporting System for LSC Recipients.

II. EXECUTIVE SUMMARY

LASO's compliance programs and efforts satisfy the regulatory and fiscal requirements of the LSC Act of 1974 as amended ("LSC Act"), regulations, and other authorities; however, some limited patterns of regulatory and fiscal weakness were identified with its: documentation of legal assistance and citizenship/alienage eligibility information, screening for reasonable income prospects and non-medical expenses for disability, completion of retainer agreements and priority agreements, application of case closure categories, PAI follow-up, automated case management system ("ACMS"), policies, and failure to timely close files. In addition, some weaknesses with LASO's internal controls and segregation of fiscal duties, funder notifications, payment of fees and dues, as well as the adoption of fiscal procedures, were identified during the review of its financial operations. Most of the errors identified during intake, PAI, and case review resulted from a lack of standard and comprehensive review of the compliance-related information in open and closed cases. Most of the errors identified during the financial operation review were the result of a temporary staff vacancy and lack of understanding of LSC requirements. After the review, LASO implemented changes and resolved many, but not all, of the identified deficiencies and must continue to take corrective action measures to implement comprehensive, fiscal and case review and procedures, as well as to provide training and instruction to staff concerning areas of misunderstanding uncovered during the onsite review.

III. BACKGROUND OF REVIEW

During the week of October 6-9, 2014, the Office of Compliance and Enforcement ("OCE") team conducted a Compliance Review at the Legal Aid Services of Oregon ("LASO") by visiting 10 of LASO's 11 offices¹ and assessing whether LASO's policies, procedures, systems, and practices comply with the 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 1614 (Private attorney involvement) ("PAI")²; 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); former 45 CFR Part 1642 (Attorneys' fees)³; 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 criminal representation and collateral attacks); 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

¹ All 11 of LASO's offices which include the Portland, Albany, Bend, Hillsboro, Klamath Falls, Lincoln County, Native American, Pendleton, Roseburg, Salem, and Woodburn offices were assessed. The Roseburg office, however, was not visited because of a lack of intermediaries. Roseburg cases were reviewed at the Klamath Falls office on October 6, 2014, and Roseburg interviews were conducted by telephone on October 17 and 20, 2014.

² LASO's PAI component was assessed pursuant to the former version of 45 CFR Part 1614 which was in effect at the time of the onsite review (the current regulation became effective on November 14, 2014).

³ 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. OCE's review and enforcement of this regulation was therefore only for the period prior to December 16, 2009.

(Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restrictions on assisted suicide, euthanasia, or mercy killing representation); and 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion). In addition, OCE assessed LASO's compliance with the CSR Handbook (2008 Ed., as amended 2011); the Accounting Guide for LSC Recipients (2010 Edition) ("Accounting Guide"); the Property Acquisition and Management Manual ("PAMM"); the LSC Audit Guide for Recipients and Auditors ("Audit Guide"); as well as LSC program letters and other instructions, as applicable.

LSC's Grantee Profile indicates that for 2014, LASO was granted \$3,522,058 in LSC basic field funding, \$181,035 in Native American funding, and \$545,590 in Migrant funding; during 2013, LASO received \$2,961,085 in LSC basic field funding, \$170,489 in Native American funding, and \$513,926 in Migrant funding; and during 2012, LASO received \$2,862,298 in LSC basic field funding, \$173,862 in Native American funding, and \$524,680 in Migrant funding.

By letter dated July 3, 2014, OCE requested that LASO provide a list of all cases reported to LSC in its 2012 Case Service Report ("CSR") data submission (closed 2012 cases); a list of all cases closed in 2013 (closed 2013 cases); a list of all cases opened on or after January 1, 2014, and closed on or before August 15, 2014 (closed 2014 cases); and a list of all cases which remained open as of August 15, 2014 (open cases). OCE requested that the lists contain the client name, the file identification number, the name of the case handler assigned to the case, the opening and closing dates, and the CSR case closure category and the funding source code assigned to the case. OCE requested that two (2) sets of lists be compiled - one (1) for cases handled by LASO staff and the other for cases handled through LASO's Private Attorney Involvement ("PAI") component. LASO was advised that OCE would seek access to such cases consistent with Section 509(h), Pub.L. 104-134, 110 Stat. 1321 (1996); LSC Grant Assurance Nos. 10, 11, and 12; and the LSC *Access to Records* protocol (January 5, 2004). On August 18, 2014, for reasons of attorney client privilege and confidentiality issues, LSC agreed that LASO would use unique client identifiers ("UCI") (the client's date of birth, the first three (3) to four (4) letters of both the client's first and last name, and an indication of gender) in lieu of the client's full name for each client appearing on the case lists used in the review and that it would demonstrate (either through the intake sheet or case folder identifier/label) that the case being reviewed was the case selected for review and would verify name in those instances where a client's signature was difficult or impossible to decipher. (During the onsite review the integrity of the UCI was tested and found to be reliable.)

Thereafter, an effort was made to create a representative sample of cases that the team would review during the onsite review. The sample was developed proportionately among open cases and 2014, 2013, and 2012 closed cases. During the onsite review, access to case-related information was provided through staff intermediaries. Pursuant to the OCE and LASO signed agreement of September 5, 2014, LASO staff maintained possession of the file and discussed with the team the nature of the client's legal problem and the nature of the legal assistance rendered. In order to maintain confidentiality such discussion, in some instances, was limited to a general discussion of the nature of the problem and the nature of the assistance provided. The OCE team reviewed 626 random and targeted files that were sampled to test for compliance with

LSC requirements, eligibility, consistency of automated case management information, potential duplication, timely closing, timekeeping, and proper application of case closure categories.

In addition to case review, the team reviewed documents and interviewed members of LASO's board of directors, management team, administrative and advocacy units (case handlers and support staff), and financial department to assess LASO's administrative, fiscal, and case (intake, acceptance, oversight, and closure) policies, procedures, and practices and compliance with LSC requirements.

LASO cooperated fully in the course of the review process. As discussed more fully below, LASO was informed of any compliance issues uncovered during the review. After the conclusion of the visit, on October 22, 2014, OCE, by telephone, provided LASO with its preliminary compliance findings and, thereafter, LASO began to begin to resolve and correct the errors identified during the onsite review.

By letter dated March 24, 2015, OCE issued a Draft Report ("DR") detailing its findings, recommendations, and required corrective actions ("RCA"). LASO was asked to review the DR and provide written comments within 30 days. On April 8, 2015, LASO's comments were received. LASO's comments are reflected in this Final Report ("FR") and have been attached hereto.

Based on a description of the actions taken by LASO in response to the DR, OCE finds that all required corrective actions and requests for information have not been implemented and that further action is needed. Given the nature and complexity of the corrective actions required, OCE finds it reasonable that an additional 60 days is necessary in order to complete these items and extends LASO 60 days in which to complete its required corrective actions and OCE's information request.

IV. FINDINGS

Finding 1: Cases reviewed and interviews conducted, as well as review of LASO's automated case management system ("ACMS") and post-visit information provided by LASO, evidenced that LASO now complies with Chapter III of the CSR Handbook (2008 Ed., as amended 2011).

Recipients are required to use an ACMS and implement procedures which will ensure that information necessary for the effective management of cases is accurately and timely recorded in an 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.

In accordance with LSC requirements, the onsite review evidenced that LASO's LegalServer ACMS was able to generate automated case management reports and the CSRs (by funding source, grant type, office, and PAI component); its ACMS data was able to be reviewed from

multiple perspectives; and it was able to retain gross income amounts during all eligibility screenings (even when expense factors were considered).

The ACMS, however, was found to be inconsistent with LSC requirements because household composition fields defaulted to one (1);⁴ expense drop down menu fields failed to include “non-medical expenses associated with disability;” and open date information for cases automatically changed to the current reopen date whenever closed files were reopened. *See* Open Case No. 14-2004860, Closed 2013 Case No. 13-1995023, and Closed 2012 Case Nos. 11-1974093, 12-1980551, 12-1984986, and 10-1956150. Finally, the ACMS lacked programming to easily code a private attorney’s assistance as PAI (with the result that a private attorney’s cases were entered into the ACMS as staff assistance and a few staff attorney cases were entered into the ACMS as PAI assistance). *See* Closed 2013 Case Nos. 13-1997506, 13-1996046, and 13-1993901. *See also* Closed 2012 Case No. 12-1980110. LASO, by email, provided OCE with documentation on October 29, November 19, and December 5, 2014, that it had removed the defaults in its household composition fields and added an expense category for “non-medical expenses associated with disability” to its expense drop down menu. In addition, the automatic “open date” change function was deleted and open dates now remain constant and unchanged whenever closed files are reopened. Finally, LASO created an additional PAI category to more easily designate cases as PAI for CSR purposes. After testing, LASO determined that its programming changes were effective.

Cases reviewed and interviews conducted, as well as review of LASO’s ACMS and post-visit information provided by LASO, evidenced that it now complies with Chapter III of the CSR Handbook (2008 Ed., as amended 2011).

There are no recommendations or required corrective actions.

Finding 2: Documents reviewed and interviews conducted, as well as review of post-visit information provided by LASO, evidenced that LASO substantially complies with LSC’s intake and case management system requirements.

The intake, case acceptance, and case management procedures and practices of LASO’s regional offices, its special projects,⁵ its telephone hotlines,⁶ and its outreach activities⁷ were assessed to

⁴ As these fields have been determined to be critical to the determination of eligibility, defaults are prohibited. *See* Program Letter 02-6, “Limitation of Defaults in Case Management Software,” (June 6, 2002) and CSR Handbook (2008 Ed., as amended 2011), §§ 3.6, 5.3, and 5.4. *See also* Open Case No. 13-1997235 (number of household members defaulted in the ACMS to one (1); however, the case acceptance form listed the number of house members as three (3)).

⁵ The bankruptcy, domestic violence, family law, housing, fair housing, foreclosure, tax, civil, employment, and expungement special projects were assessed.

⁶ LASO operates child support, public benefits, housing, and foreclosure hotlines. The child support and public benefits hotlines are operated with partners, one (1) of whom is the Oregon Law Center (“OLC”), an entity that engages in activities that are restricted by LSC. LASO and its partners share the staffing of the hotlines on a rotating basis. These hotlines were not observed because of LASO’s confidentiality concerns. Information about the hotlines was gathered by the interview of staff and the review of cases and documents.

determine compliance with LSC requirements by the interview of primary intake screeners, receptionists, paralegals, attorneys (staff and supervising), regional directors, and executive team members, as well as by the evaluation of the forms, letters, checklists, and other documents LASO uses to determine eligibility and manage cases.⁸ The onsite review evidenced that the majority of LASO's intake is conducted by telephone at its regional offices and through its hotlines; however, LASO also conducts limited in-person intake as part of its special projects, outreach activities, and walk-in availabilities. Because most intakes are entered directly into the ACMS, and because most in-person applicants complete standard paper intake forms which contain screening questions similar to the intake prompts used by the ACMS (or in-person intakes are directly entered into the ACMS remotely), all initial intake screenings generally follow the same format resulting in consistent program-wide screening, with limited exceptions, as discussed below.

While intake days and times vary among offices, hotlines, special projects, and outreach activities, most intakes are conducted in a standard manner: information concerning the applicant's county of residence and nature of legal problem is first obtained and an applicant whose case falls outside of priorities is rejected and an applicant residing outside of the service area is referred to another legal service provider, as appropriate. Information about the applicant, the opposing party, and the facts of the dispute is elicited by the intake screener and potential conflicts and/or duplicate cases are identified.⁹ Information about the applicant's household composition, income, reasonable income prospects, and assets is obtained to identify financially eligible and ineligible applicants. If an applicant's income or assets exceeds LSC guidelines, information about the applicant's expenses and other factors (income) and/or unusual circumstances (assets) is considered and the client may be determined financially eligible; however, an applicant is rejected or the case is supported with another grant, if after exceptions are considered, his or her income and/or assets exceed LSC guidelines.

After financial eligibility, citizenship/alienage eligibility is determined. The intake screener may perform this screening or transfer the applicant to a case handler but, in any event, the screening procedure is as follows: an applicant who appears in-person will execute a citizenship attestation or supply relevant alienage information while an applicant who calls on the telephone will be asked about his or her citizenship/alien status and the answer will be recorded in the ACMS.

If the applicant is a citizen or eligible alien, the case handler reviews the intake for accuracy, resolves potential conflicts, and may provide the applicant with limited legal assistance. A case requiring extended services is considered for representation during weekly group case

⁷ LASO provides legal assistance at: the Gateway Center for Domestic Violence Services, the Safe Place Family Justice Center, El Programa Hispano, Second Chance Housing, offices of private attorneys, local court houses, and senior centers.

⁸ Obtained while onsite were: checklists to determine citizenship/alien status; checklists to open and close cases; forms to analyze conflicts; and paper intake forms to determine eligibility (with standard intake screening questions); and case closure letters and memoranda.

⁹ As a result of a past relationship with the OLC and an ongoing and present close relationship, LASO and OLC share each other's conflict information and honor each other's conflicts of interest. The ACMS contains a separate feature that allows a conflict search of each organization's database without sharing other confidential information. Once a potential conflict is identified, LASO contacts OLC to resolve the conflict. Conflicts of OLC are honored by LASO and those applicants will be rejected by LASO. The same process is in effect if OLC identifies an applicant who is a potential conflict of LASO.

acceptance meetings and, if accepted, is assigned to a case handler by a regional director and/or supervising attorney. The case handler will then require the client to execute a retainer agreement and statement of facts, as necessary, and may require the client to execute a citizenship attestation or supply information concerning his or her eligible alien status (if this has not been done previously). After the client's case is concluded, the case handler sends the client a closing letter; prepares a case closure memorandum; assigns a case closure category; completes a case closure checklist (which checks the sufficiency of ACMS intake and case information); closes the file in the ACMS; and provides the case to a regional director or supervisory attorney for final review. All cases closed by paralegals are reviewed by management; all extended service representation cases closed by attorneys are reviewed by management; however, only a few limited service cases closed by attorneys are reviewed by management.

Cases and documents reviewed, as well as interviews conducted, evidenced that that the intake, case acceptance, and case management procedures and practices of LASO support LSC's compliance-related requirements concerning priorities, duplicate cases, conflicts of interests, asset eligibility, and income eligibility (sources, amounts, household composition, representation of groups, government benefits exception,¹⁰ and financial eligibility of domestic violence victims). Weaknesses were identified with screening for reasonable income prospects and citizenship/alienage, as well as with paper intake forms and file oversight.

Income Screening

Interviews evidenced that an intake screener was not considering an applicant's reasonable income prospects when the screener was certain, based on personal experience and knowledge of the applicant, that there was no reasonable possibility of a change in income. LSC regulation and LASO policy requires that every applicant be screened for potential and actual changes to his or her income. *See* 45 CFR § 1611.7(a).

Citizenship and Alienage Screening

As discussed above, in many offices, intake screeners do not screen for citizenship/eligible alien status; it is the case handlers who screen for this status. The onsite review evidenced that this intake screening process creates funding code/ LSC-eligible code inconsistencies between the ACMS and the paper file and makes it difficult to determine whether citizenship/alien status eligibility screenings were timely performed. In offices where a case handler screens for citizenship/alien eligibility, an applicant's status is initially coded as "Ineligible/Not Yet Determined" (by the intake screeners) and is automatically assigned to non-LSC funding sources. Once screened, and before acceptance, case handlers are required to update the ACMS and record the applicant's citizenship or alien status. A review of the CSR case lists, prepared in advance of the onsite review, indicated that case handlers are not always updating the funding code/LSC-eligible designations in the ACMS after performing screenings and many LSC-eligible cases on the case lists were coded as non-LSC eligible and assigned to non-LSC funding sources. In addition, the onsite review evidenced that, in cases where the ACMS was updated or the paper file contained the appropriate citizenship or alien status documentation, the date that the information was obtained was not always noted making it difficult to discern timeliness. *See*

¹⁰ The exception has not been adopted by LASO.

Closed 2013 Case No. 13-1992977 and Closed 2012 Case No. 12-1983727 (In both instances, the intermediary inferred the date of screening based on other information in the file.) LSC requires that recipients maintain sufficient documentation that evidences compliance with LSC regulations. *See* 45 CFR §§ 1626.1 and 1626.12. LASO should improve its oversight of its data entry screening practices.

Paper Intake Screening

LASO uses standard paper forms for in-person intake which do not contain screening questions for reasonable income prospects and non-medical expenses associated with disability. *See* 45 CFR §§ 1611.7(a) and 1611.5(a)(4)(v). LASO provided OCE with documentation on December 5, 2014, that indicated that LASO had revised its intake forms to include screening for reasonable income prospects and non-medical expenses associated with disability. Accordingly, LASO's paper intake forms now comply with LSC requirements.

File Oversight

There are no standards for review of open cases. While most regional offices may discuss open cases at weekly group acceptance meetings, it is not a common practice at the Portland office--given its size. While supervisors and regional directors conduct individualized case reviews, the focus is on the substantive legal work, and the depth of the compliance review and its frequency varies depending on the attorney and the management member conducting the review. Moreover, as a matter of policy, only a sampling of an attorney's limited service cases are reviewed by management. The onsite review identified several categories of case errors during the review which could have been identified by consistent review of limited service cases and extended service cases. *See* Findings Nos. 1, 5, 6, 9, 10, and 11. The onsite review determined that, while LASO has procedures and forms in place for the review of cases, these procedures have not been sufficiently and consistently implemented throughout its program because there are no standard expectations for the review of compliance-related information.

Documents reviewed and interviews conducted, as well as review of post-visit information provided by LASO, evidenced that LASO complies with LSC's intake and case management system requirements with limited exceptions. As a required corrective action, LASO must require that cases contain evidence of reasonable income prospects screening consistent with 45 CFR § 1611.7(a). It is recommended that LASO review its case closure checklist and implement mandatory open and closed case procedures throughout its offices (for case handlers and members of management), which should include the review of compliance-related information for both limited service and extended service cases. It is further recommended that LASO instruct all staff to request information about an applicant's reasonable income prospects as part of every income screening and document the date that it obtains citizenship or verifies eligible alien status, as well as updating the ACMS whenever citizenship/alienage screening is completed.

LASO's comments to the DR contained no response to this finding. Accordingly, LASO failed to demonstrate that appropriate corrective action was implemented and must supply OCE with

documentation of the action it has taken to implement RCA No. 1 within 60 days of the issuance of the FR.¹¹

Finding 3: Cases and documents reviewed, as well as review of post-visit information provided by LASO, evidenced that LASO complies with the income eligibility documentation requirements of 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines (“FPG”).

Recipients may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance. *See* 45 CFR § 1611.4(a). Specifically, recipients must establish financial eligibility policies, including annual income ceilings for individuals and households, and record the number of members in the applicant’s household and the total income before taxes received by all members of such household in order to determine an applicant’s eligibility to receive legal assistance. *See* 45 CFR § 1611.3(c)(1) and CSR Handbook (2008 Ed., as amended 2011), § 5.3 (A numerical total value must be recorded, even if it is zero or below the recipient’s guidelines). 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 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.

LASO’s board-approved financial eligibility policy was reviewed and was found to be consistent with LSC requirements.¹² Cases and documents reviewed evidenced that LASO complies with the income eligibility documentation requirements of 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the FPG.

¹¹ LASO indicated in a telephone conversation with OCE on April 20, 2015, that it had believed that it should provide information concerning its implementation of the RCAs after the issuance of the FR, rather than with its comments to the DR.

¹² LASO provided a copy of its Board of Directors approved financial eligibility policy on February 19, 2015, which had been approved by its Board of Directors on December 6, 2014.

There are no recommendations or required corrective actions.

Finding 4: Cases and documents reviewed evidenced that LASO complies with the asset eligibility documentation requirements of 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-adopted asset eligibility policies. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4 (A numerical total value must be recorded, even if it is zero or below the recipient's guidelines.)

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

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

Cases and documents reviewed evidenced that LASO complies with the asset eligibility documentation requirements of 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

There are no recommendations or required corrective actions.

Finding 5: Review of LASO's policy and citizenship attestation formats evidenced that LASO complies with the requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens); however, cases reviewed evidenced that LASO does not comply with the documentation requirements of this regulation.

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. *See* Kennedy Amendment at 45 CFR § 1626.4. Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient's CSR data submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, "Violence Against Women Act 2006 Amendment" (February 21, 2006), which instructs recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual assault or trafficking, or who qualify for a "U" visa. LSC recipients are now allowed to include these cases in their CSRs.

LASO's policy containing its restrictions on legal assistance to aliens was reviewed and was found to comply with the requirements of 45 CFR Part 1626. LASO's in-person citizenship attestation formats were reviewed and were found to comply with LSC requirements as the written attestation forms contained a yes/no check box preceding the sentence "I certify that I am a United States Citizen," followed by separate signature and date lines. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.5.

A few cases that were reviewed lacked executed citizenship attestations when the files reflected the clients had in-person contact with the program. In addition, other files were identified that contained attestations that were not timely executed. *See* Closed 2014 Case No. 14-2003673 (file failed to contain an attestation); Closed 2013 Case No. 07-1916311 (attestation in file was not timely executed); and Closed 2012 Case Nos. 12-1976663 (file failed to contain an attestation). As discussed in Finding 2, it is likely that these errors could have been identified through a comprehensive review of files when they are opened and/or closed.

Cases reviewed evidenced that LASO does not comply with the documentation requirements of 45 CFR Part 1626; however, its policy and attestation formats comply with these requirements. As a required corrective action, LASO must require all cases to contain timely executed written citizenship attestations pursuant to 45 CFR Part 1626. In addition, it is recommended that LASO implement mandatory open and closed case procedures throughout its offices (for case handlers and members of management) to ensure that compliance-related information is obtained.

LASO's comments to the DR contained no response to this finding. Accordingly, LASO failed to demonstrate that appropriate corrective action was implemented and must supply OCE with

documentation of the action it has taken to implement RCA No. 2 within 60 days of the issuance of the FR.

Finding 6: Cases and documents reviewed evidenced that LASO substantially complies with the 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 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.¹³ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

A few extended service cases lacked executed retainer agreements or contained retainers that were not timely executed *See* Closed 2014 Case Nos. 14-1999924, 13-1992568, and 13-1995296, and Closed 2013 Case Nos. 07-1916311 and 13-1990570.

Cases and documents reviewed evidenced that LASO substantially complies with the requirements of 45 CFR § 1611.9. As a required corrective action, LASO must require that its case files contain timely and properly executed retainer agreements, where required. In addition, it is recommended that LASO implement mandatory open and closed case procedures throughout its offices (for case handlers and members of management) to ensure that compliance-related information is obtained.

LASO's comments to the DR contained no response to this finding. Accordingly, LASO failed to demonstrate that appropriate corrective action was implemented and must supply OCE with documentation of the action it has taken to implement RCA No. 3 within 60 days of the issuance of the FR.

Use of OCE approved retainer agreement form

The current LASO retainer agreement does not include signature and date lines for LASO case handlers, as only LASO clients execute these agreements. LASO reported that, with limited exceptions, the Rules of Professional Responsibility, state law, and prevailing practice in Oregon do not require attorneys to execute retainer agreements.¹⁴ LASO further advised, by email, on

¹³ 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.

¹⁴ LASO, by email dated February 18, 2015, advised OCE that the State of Oregon requires retainer agreements in personal injury and worker compensation cases. In addition, retainer agreements are required when fees are earned upon receipt or are non-refundable. *See* also Oregon Rules of Professional Conduct 1.5 (c)(3) (Fee agreements or other engagement agreements are not required to be in writing and verbal agreements are enforceable).

February 26, 2015, that it has been using its “client executing” retainer agreements since 2002 with the express approval and permission of OCE.¹⁵ Nonetheless, LSC’s mandate, under § 1007 (a) (1) of the Act to assure the maintenance of the highest quality of service and professional standards, provides the basis for which OCE will now overrule its 2002 approval, and will prospectively require the bilateral execution of LASO’s retainer agreements. Accordingly, LASO must discontinue use of its “client executing” retainer agreements. With its comments to this Draft Report, LASO must provide a revised retainer agreement that requires execution by both the case handler and the client (including the dates of the executions).

In its comments submitted in response to the DR, LASO agreed that it would begin to execute retainer agreements along with its clients. LASO proposed two (2) alternative signature options: LASO would either pre-print the signature “Legal Aid Society of Oregon, Inc.” on its retainer agreements or it would print retainer agreements with blank signature lines for individual case handlers to complete with clients (both signature options require that agreements be dated by the case handlers). It was LASO’s position that both signature options were valid executions and enforceable under Oregon law and “would in no way affect LASO’s interpretation of its obligations to its clients.” LASO preferred the pre-printed signature option because it allowed LASO to reduce the time spent on the review of retainer agreements for signature compliance during annual CSR self-inspections and when files are opened and closed. LASO further indicated, in its comments to the DR, that “although the time involved in signing the retainer may seem miniscule, the total amount of program resources involved in signing and review for several thousand cases each year was not insignificant.”

Based upon OCE’s review of LASO’s comments and proposed signature options submitted in response to the DR, and in consultation with the LSC’s Office of Legal Affairs, LSC has determined that it is professionally desirable and consistent with LSC regulation to require individual LASO case handlers to contemporaneously sign retainer agreements with their clients. *See* 45 CFR § 1611.9 (the recipient shall execute a written retainer agreement *with* the client). Accordingly, LASO is instructed not to use the pre-printed signature option. Finally, use of the retainer agreement format that contains a blank signature and date line for individual case handlers to complete with their clients fully implements this required additional action.

As LASO indicated, in its comments to the DR, that it will implement either proposed signature option selected by LSC, this required additional action item will be closed by LASO implementing the retainer agreement format with the blank signature and date line. LASO should provide OCE with confirmation of the date on which the retainer agreement with the blank signature and date line went into effect, as well as copies of any directives provided to LASO staff regarding usage of the form. This information should be provided within 60 days of the issuance of this FR.

¹⁵ As the current retainer format was approved by OCE on June 20, 2002, LASO’s use of this agreement is not at this time considered by LSC to be a compliance deficiency.

Finding 7: Cases and documents reviewed, as well as review of post-visit information provided by LASO, evidenced that LASO complies with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

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

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

Cases and documents reviewed, as well as review of post-visit information, evidenced that LASO complies with the requirements of 45 CFR Part 1636.¹⁶

There are no recommendations or required corrective actions.

Finding 8: Cases and documents reviewed, as well as review of post-visit information provided by LASO, evidenced that LASO complies with the requirements of 45 CFR § 1620.4 (Priorities in use of resources) and now complies with the requirements of 45 CFR § 1620.6 (Signed written agreements).

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. In addition, staff who handle cases or matters, or make case acceptance decisions, must 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. *See* 45 CFR § 1620.6.

LASO's board-approved priorities are tailored to each of its LSC funding sources and the local needs of its clients¹⁷ and contain provisions for emergency acceptance of non-priority cases and

¹⁶ During the onsite review, LASO could not locate the client identity and statement of facts for Closed 2014 Case No. 13-1992568; however, after the review on November 25, 2014, LASO, by email, provided the required documentation evidencing compliance (unsigned client identity and statement of facts and signed acknowledgement attached to dissolution pleadings that described the facts of the dispute and identity of the parties).

¹⁷ LASO has separate priorities for its LSC basic field, Native American, and Migrant grants as follows: basic field: family law, housing, income maintenance, employment, health, consumer financial matters, civil rights, individual rights, incorporation/dissolution/corporate issues, education/juvenile, wills, estates, torts, and licenses; Native American: enrollment, trust land and resources, Indian Child Welfare Act, tribal court enhancement, education, health care, probate, Violence Against Women Act/domestic violence, tribal sovereignty, delinquency

matters. Interviews with members of management and staff evidenced that LASO employees are familiar with LASO priorities, as well as emergency non-priority case and matter acceptance procedures. LASO's priority policy was found to be consistent with LSC requirements.

In addition, LASO requires its staff to sign a standard agreement acknowledging that they have read and are familiar with LASO's priorities and emergency case and matter acceptance procedures. Review of a sample of signed written agreements evidenced that a case handler failed to sign a written agreement pursuant to the requirements of 45 CFR § 1620.6. While onsite, the case handler signed the written agreement. After the onsite visit, by email dated February 24, 2015, LASO provided documentation and advised OCE that additional oversight procedures are now in place to ensure that written priority agreements are signed by every LASO employee: LASO requires all new employees to sign the written priority agreement during orientation and now requires the staff member orientating the new employee to indicate that the written priority agreement was signed by the new employee on its new employee administrative processing checklist.”

Cases and documents reviewed, as well as review of post-visit information, evidenced that LASO complies with the requirements of 45 CFR § 1620.4 and now complies with the requirements of 45 CFR § 1620.6.

There are no recommendations or corrective actions required.

Finding 9: Cases reviewed evidenced that LASO substantially complies with the requirements of the CSR Handbook (2008 Ed., as amended 2011), §§ 5.6 and 10.5 (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.

representation, and public benefits; and Migrant: employment, housing, health, individual rights, income maintenance, tax, and consumer law.

Cases reviewed identified files where the documentation of legal assistance failed to comply with the requirements of the CSR Handbook (2008 Ed., as amended 2011). *See* Closed 2013 Case Nos. 13-1991830 and 13-1997615 (applicants rejected and the files contained no evidence that legal assistance was otherwise provided); Closed 2013 Case Nos. 13-1988433, 13-1987934, and 13-1988667 (applicants given informational materials and the files contained no evidence that legal assistance was otherwise provided); Closed 2012 Case Nos. 12-1986977 (applicant withdrew from services and the file contained no evidence that the legal assistance was otherwise provided), 11-1970837, and 10-1955792 (legal services described as “bankruptcy consultation” in the files and such documentation is inadequate to demonstrate legal assistance was provided); and Closed 2012 Case Nos. 13-1987788 (legal services described as “advice on consumer law issue” in file and such documentation is inadequate to demonstrate legal assistance was provided), 12-1976557, and 12-1981586 (referrals given and the files contained no evidence that legal assistance was otherwise provided). A file describing legal assistance as “advice” or “consultation” is insufficient documentation of legal assistance because there is no application of the law to the client’s unique facts and circumstances. *See* CSR Frequently Asked Questions (July 2012), Chapter V, § 5.6, Question 1. As discussed in Finding 2, these files (and others similar to them) could have been identified and excluded if mandatory and standard case closure procedures were implemented.

Cases reviewed evidenced that LASO substantially complies with the requirements of the CSR Handbook (2008 Ed., as amended 2011), §§ 5.6 and 10.5. As a required corrective action, LASO must require that all case files contain documentation of legal assistance. In addition, it is recommended that LASO implement mandatory open and closed case procedures throughout its offices (for case handlers and members of management) to ensure that compliance-related information is obtained.

LASO’s comments to the DR contained no response to this finding. Accordingly, LASO failed to demonstrate that appropriate corrective action was implemented and must supply OCE with documentation of the action it has taken to implement RCA No. 4 within 60 days of the issuance of the FR.

Finding 10: Cases reviewed evidenced that LASO complies with Chapter VIII (Legal problem codes) and substantially complies with Chapter IX (Case closure categories) of the CSR Handbook (2008 Ed., as amended 2011).

The CSR Handbook (2008 Ed., as amended 2011) defines the legal problem code categories 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.

Case review identified no exceptions to problem code assignments; however, several files were assigned case closure categories inconsistent with CSR Handbook (2008 Ed., as amended 2011) instructions. A few cases were closed with the “A-Counsel and Advice” case closure category

when the more appropriate action would have been to close the file as “B-Limited Action” because case handlers contacted third-parties on the client’s behalf, either by telephoning opposing attorneys or sending demand letters. *See* Closed 2014 Case No. 13-1998293, Closed 2013 Case No. 13-1994621, and Closed 2012 Case No. 11-1975136. A couple of cases were closed with the “B-Limited Action” case closure category when the more appropriate action would have been to close the file as “A-Counsel and Advice” because the only legal assistance provided to the client was advice. *See* Closed 2013 Case No. 13-1997514 and Closed 2012 Case No. 10-1955792. Another case was closed with the “IB-Contested Court Decision” case closure category when the more appropriate action would have been to close the file as “G-Negotiated Settlement with Litigation” because the case was resolved by a stipulated judgment after mediation. *See* Closed 2013 Case No. 11-1975778. In addition, a case was closed with the “F-Negotiated Settlement without Litigation” case closure category when the more appropriate action would have been to close the file as “L-Extensive Service” because the case was not resolved by the recipient’s actions. *See* Closed 2012 Case No. 11-1969695. Finally, a case was closed with the “L-Extensive Service” case closure category when the more appropriate action would have been to close the file as “B-Limited Action” because only limited action was taken on behalf of the client. *See* Closed 2013 Case No. 13-1987928.

Cases reviewed evidenced that LASO complies with Chapter VIII and substantially complies with Chapter IX of the CSR Handbook (2008 Ed., as amended 2011). It is recommended that LASO conduct periodic staff training to clarify CSR requirements and ensure proper application of the case closure categories.

Finding 11: Cases reviewed evidenced that LASO substantially complies with the requirements of the CSR Handbook (2008 Ed., as amended 2011), §§ 3.3 and 10.3 (Dormancy and untimely closure of 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.¹⁸ 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) 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).

¹⁸ 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) (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).

Case review identified dormant and untimely closed files: Open Case No. 12-1980721 (PAI case opened during 2012. The last legal work documented in the file was during 2012, the file contained no notations of any further legal assistance needed or provided since 2012, and therefore, is dormant); Closed 2014 Case Nos. 13-1992025 (limited action staff case opened during 2011. The last legal work documented in the file was during 2011, with no notation in the file of any further legal assistance needed or provided since 2011, and therefore the file was untimely closed in 2014), and 09-1942970 (staff case opened during 2009. The last legal work documented in the file was during 2011, with no notation in the file of any further legal assistance needed or provided since 2011, and therefore the file was untimely closed in 2014); Closed 2013 Case No. 12-1981881 (limited action staff case opened during 2011. The last legal work documented in the file was during 2011, with no notation in the file of any further legal assistance needed that year or in subsequent years, and therefore the file was untimely closed in 2013); and Closed 2012 Case Nos. 09-1947326, 10-1955792, and 09-1938110 (PAI cases opened during 2009 and 2010. The last legal work documented in the files was the year in which they were opened, with no notation in the files of any further legal assistance needed in subsequent years, and therefore these files were untimely closed in 2012). As discussed in Finding 2, these files (and other similar to them) could have been identified and excluded if mandatory and standard case closure procedures were implemented.

Cases reviewed evidenced that LASO substantially complies with the requirements of the CSR Handbook (2008 Ed., as amended 2011), §§ 3.3 and 10.3. However, based on the exceptions noted, as a required corrective action, LASO must require the timely closure of its cases. It is recommended that LASO implement mandatory open and closed case procedures throughout its offices (for case handlers and members of management), which should include the review of automated case management reports of cases without time entries to ensure that open cases are not dormant and are closed in a timely manner.

LASO's comments to the DR contained no response to this finding. Accordingly, LASO failed to demonstrate that appropriate corrective action was implemented and must supply OCE with documentation of the action it has taken to implement RCA No. 5 within 60 days of the issuance of the FR.

Finding 12: Cases reviewed evidenced that LASO complies with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.2 (Single reporting of cases).

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

Only one (1) duplicate file was identified during the onsite review: on October 17, 2011, Closed 2012 Case No. 11-1974093 was opened and then was closed on January 8, 2012. When the client returned on May 21, 2012, seeking further legal assistance for the same legal problem, LASO mistakenly opened another case on the client's behalf, Closed 2012 Case No. 12-1980540. It was determined that the second file was opened due to a staff member's misunderstanding of CSR requirements and, during the onsite review, an OCE team member instructed the staff member to report repeated instances of assistance in the same year as a single case consistent with the requirements of the CSR Handbook (2008 Ed., as amended 2011), §§ 6.3 and 6.4. The error was identified and corrected while onsite.

Sample cases reviewed evidenced that, with one (1) exception, LASO was in compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.2.

There are no recommendations or required corrective actions.

Finding 13: Documents reviewed and interviews conducted, as well as review of post-visit information provided by LASO, evidenced that LASO complies with the requirements of 45 CFR Part 1604 (Outside practice of law). LASO's revised outside practice of law policy complies with these requirements.

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 this part, recipients are authorized, but not required, to permit attorneys, to the extent that 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 the Executive Director, Director of Administration, intake screeners, and case handling staff evidenced that LASO has no knowledge of impermissible outside practice being performed by LASO staff on or off LASO premises. The outside practice activities disclosed by LASO in advance of the review were found to comply with the requirements of 45 CFR Part 1604.

LASO was required to revise its policy on the outside practice of law so as to limit the acceptance of court and mandatory *pro bono* appointments to those that were *consistent with the attorney's primary responsibility to provide legal assistance to eligible clients in civil matters* as required by 45 CFR § 1604.7(a)(1). After the onsite review, by email dated November 3, 2014, LASO provided OCE with a copy of its revised policy. The revised policy was reviewed and found to comply with LSC regulation.

Documents reviewed and interviews conducted, as well as review of post-visit information, evidenced that LASO complies with the requirements of 45 CFR Part 1604 and that LASO's revised outside practice of law policy complies with these requirements.

There are no recommendations or required corrective actions.

Finding 14: Cases, documents, and public materials reviewed, as well as interviews conducted evidenced that LASO complies 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 LASO's pamphlets, brochures, flyers, guides, bulletin boards, and other public spaces evidenced that they were free of prohibited political message, expression, symbol, image, or allusion.¹⁹ Case review and review of LASO's Chart of Accounts and cash disbursements, as well as interviews with the Director of Administration, Director of Finance, and staff evidenced that LASO was not involved in any prohibited political activities. Finally, review of LASO's policy and recordkeeping procedures evidenced that LASO complies with the requirements of 45 CFR Part 1608.

Cases, documents, and public materials reviewed, as well as interviews conducted, evidenced that LASO complies with the requirements of 45 CFR Part 1608.

There are no recommendations or required corrective actions.

Finding 15: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies with the requirements of 45 CFR Part 1609 (Fee-generating cases).

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

Recipients may provide legal assistance in such cases where the case has been rejected by the local lawyer referral service, or two (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

¹⁹ The sampled public materials contained information about LASO's services and information regarding specific legal topics. The remaining public materials were published by government agencies and other organizations and contained information about their services.

consultation with the private bar, has determined that the type of case is a type 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).

Interviews with the Director of Administration and staff confirmed that LASO is not involved in any restricted fee-generating case. If a case is supported with LSC funds and thought to be fee-generating, a form is completed that sets forth the criteria for case acceptance, which is reviewed and approved by the Director of Administration. A review of this form disclosed no inconsistencies with LSC requirements. Review of LSC funded cases evidenced compliance with LSC requirements.²⁰

Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies with the requirements of 45 CFR Part 1609.

There are no recommendations or required corrective actions.

Finding 16: Documents reviewed and interviews conducted, as well as review of post-visit visit information provided by LASO, evidenced that LASO now complies with the requirements of 45 CFR § 1610.5 (Notification).

45 CFR 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.

²⁰ LASO does not complete fee-generating acceptance forms for cases not supported with LSC funds and excludes them from the CSRs consistent with 45 CFR § 1609.3. *See* Open Case No. 14-2000059.

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

Recipients are required to provide funding sources of \$250.00 or more with written notification of the prohibitions and conditions tied to the use of the funds due to the recipient's receipt of LSC funding. *See* 45 CFR § 1610.5.

Interviews with the Director of Administration and review of five (5) contributions evidenced that LASO notifies funders, who provide \$250.00 or more, about the prohibitions and conditions tied to the use of their funds due to LASO's receipt of LSC funding and that such notification is in writing. The onsite review evidenced that LASO only provides notification when it solicits or

receives non-solicited funds for the first time.²¹ Funders must be notified whenever funds are solicited or received. *See* 45 CFR § 1610.5. In anticipation of LSC's onsite visit, LASO, on August 25, 2014, instructed its grant seekers (managers) to provide the required notice. After the onsite review, by emails dated February 23 and 24, 2015, LASO advised OCE that its managers had been instructed on November 3, 2014, concerning 45 CFR § 1610.5 requirements and would be provided with further instruction to ensure that notifications are provided whenever funds are solicited.

Documents reviewed and interviews conducted, as well as review of post-visit information provided by LASO, evidenced that LASO now complies with the requirements of 45 CFR Part 1610.5.

There are no recommendations or required corrective actions.

Finding 17: Documents reviewed and interviews conducted evidenced that LASO was not in compliance with the requirements of former 45 CFR Part 1614 (Private Attorney Involvement).²²

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 PAI requirement.²³

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 were, however, to be determined by the recipient, taking into account certain factors. *See* former 45 CFR §§ 1614.3(a), (b), (c), and (e)(3). The regulations, at former 45 CFR § 1614.3(e)(2), required that the support and expenses relating to the PAI effort be reported separately in a recipient's year-end audit. Under the regulation in effect at the time of the onsite review, the term "private attorney" was defined as an attorney who is not a staff attorney. *See* former 45 CFR § 1614.1(d). Further, former 45 CFR § 1614.3(d)(3) required recipients 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.

²¹ For example, LASO provided a major donor, the Campaign for Equal Justice, with notifications on June 11, 2011, but has not sent additional notifications as further donations were received in 2012 and 2013.

²² Since the time of the visit, LSC has revised 45 CFR Part 1614. The revised Part 1614 took effect on November 14, 2014. *See* 79 *Federal Register* 61770 (October 15, 2014) Except as otherwise noted, all references and citations contained in this finding are to Part 1614 as published at 50 *Federal Register* 48501 (November 26, 1985).

²³ Although the former 45 CFR Part 1614 was in effect at the time of OCE's onsite review and is discussed in this Report, LASO must now adhere to the amended PAI regulation effective November 14, 2014. Many of the key requirements are the same between the former and revised regulation.

Recipients were required to develop a PAI Plan and budget. *See* former 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* former 45 CFR §§ 1614.4(a) and (b).

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

PAI requirement

A review of LASO's Audited Financial Statements ("AFS") during the review period evidenced that LASO had devoted LSC funds in an amount equal to 12.5% of its LSC annualized basic field award to its PAI requirement. (For example, during 2013, LASO documented \$370,133.00 in PAI expenses and achieved a 12.5% PAI allocation.) However, interviews with the executive team evidenced that LASO expends more than 12.5% of its LSC annualized basic field award toward its PAI requirement (and documents these expenses in its accounting records) but only expenses equaling the 12.5% required by LSC regulation are reported in its year-end audit. LSC advises that it is preferable to allocate all PAI expenses to the PAI requirement so as to accurately quantify PAI efforts.

Financial systems

A review of sampled time and attendance records and non-personnel cost documentation (direct and indirect) evidenced that LASO's financial systems and procedures allow it to separately identify and account for costs related to its PAI effort. Case handler time (management, attorney, and paralegal) is recorded and properly allocated to the PAI requirement and non-personnel PAI costs are allocated to LASO's PAI cost center with direct non-personnel costs allocated as expenses and indirect non-personnel costs allocated pursuant to a cost ratio formula (the amount of actual PAI time is divided by the amount of total staff work hours applied to the amount of indirect costs).

PAI Plan

A review of LASO's plans for PAI activities evidenced that they are adopted annually and detail LASO's private attorney direct service legal assistance activities, as well as its support activities, and take into account certain required regulatory factors; however, they are insufficiently documented as they do not indicate whether LASO distributed them to private attorneys and minority and women's bar associations, or consulted with significant segments of the client community. *See* former 45 CFR §§ 1614.4(a) and (b).

PAI activities

LASO involves private attorneys in the delivery of pro bono legal services to eligible clients through its brief service clinics and through attorney-client matches. LASO's PAI program is coordinated through its regional offices, under the direction of the Director of Administration and Executive Director. The majority of PAI activity is coordinated by LASO's Volunteer Lawyer's Program ("VLP") in the Portland office, but many other regional offices engage in a limited amount of PAI clinic and case activity.²⁴ In addition, some private attorneys are "in-house" and are directly supervised by LASO regional directors as they engage in their pro bono legal assistance activities. The priorities established by the Board of Directors for private attorney cases are identical to those established for staff cases. The intake procedures for PAI activities, as discussed in Finding 2, are consistent with LASO's intake policies, procedures, and practices (with limited exceptions).

Clinics

The Bend office coordinates quarterly informational bankruptcy clinics and the Salem office conducts clinics for seniors (intake is conducted by staff at the Salem office). In addition, VLP operates several pro bono brief services clinics in the metropolitan Portland area (domestic violence, pro se family law assistance, bankruptcy, expungement, and general civil law) (intake is conducted by LASO and VLP recruits the private attorneys and schedules the participants).

During the clinics, described above, private attorneys may provide legal information and/or advice, and may assist with the preparation of pro se documents. At the conclusion of any of the advice and document preparation clinics, private attorneys either describe the legal assistance provided on a case closure form (VLP clinics) or denote the level of service provided to the participant(s) on a final disposition form by selecting the CSR case closure category ("A"– "L") to be assigned to the case (Salem and Bend). The final disposition/closure forms and any other documents collected are reviewed by LASO staff members who assign the CSR case closure category included on the forms so long as it is consistent with the information contained in the client's file (inconsistencies will be resolved as needed).

Attorney-client matches

Applicants seeking to obtain pro bono representation from VLP or a regional office complete an intake as part of LASO's intake process and are referred by VLP/regional office to a private attorney. Prior to the referral, the private attorney is given the name of the applicant and opposing party and the referral is finalized when a conflict search reveals no conflicts of interest with the private attorney or LASO. The client is notified by telephone of case acceptance and instructed to contact the private attorney (at the address and telephone number provided). In addition, the client is mailed a packet with a confirmatory letter and citizenship attestation form

²⁴ The following regional offices are involved in PAI activities: Albany (in-house private attorneys and direct referrals for attorney-client matches); Bend (legal informational bankruptcy clinics); Lincoln County (direct referral attorney-client matches); Pendleton (attorney-client consultations and other direct referrals for attorney-client matches); Portland (VLP clinics and direct referral attorney-client matches); and Salem (in-house private attorneys and direct referrals for attorney-client matches).

to sign and return to LASO. The private attorney is sent a packet with a confirmatory letter with case-related information, a client information sheet, eligibility agreement, citizenship attestation (with instructions that the client is to sign the attestation and for the attorney to return it to VLP), and a final disposition/case update form (“final disposition form”). There is no standard time period that Portland VLP and other regional offices must follow to confirm whether private attorneys are proceeding with cases or when final disposition forms are sent by and returned to LASO: the Albany office sends final disposition forms to private attorneys within six (6) months of case placement, the Pendleton office sends final disposition forms to private attorneys within seven (7) days of case placement and completed forms are typically returned within a month, the Salem office sends final disposition forms to private attorneys anytime between three (3) and six (6) months of case placement, and private attorneys return completed final disposition forms to the Lincoln County office when PAI cases are concluded. Most offices send status update forms, which are the final disposition forms, quarterly until the cases conclude or become untimely and are closed. Depending on the office, cases are closed by a support staff person, supervising attorney, or regional director. Each case closer is responsible for assigning the case closure category to the file consistent with information on the final disposition forms (cases in which the private attorney failed to return the final disposition form are excluded from the CSRs). When cases conclude, letters are mailed to the private attorneys and clients. A random sampling of files is reviewed by the Director of Administration.

System weaknesses:

Citizenship/alienage and priority screening:

Monthly, VLP coordinates 25 general civil law advice clinics at nine (9) locations serving seniors throughout the metropolitan Portland area; these clinics are operated in a different manner than other VLP clinics because VLP supports them with Older Americans Act Title III funds, which are not subject to LSC income and asset ceiling restrictions.²⁵ While VLP recruits private attorneys to provide legal advice at the senior clinics, they do not conduct the eligibility screenings; schedule the participants; or attend, supervise, or facilitate the clinics. Instead, employees of the senior centers, who have been trained on LSC intake procedures, assist participants as they complete LASO’s paper intake and citizenship attestation forms and alienage verifications, screen for priorities, schedule consultations, and facilitate clinic operations. VLP receives the intake, citizenship/alienage information, and other documents *after the* clinics are held and participants have received legal advice (cases with non-compliant citizenship/alienage information—or no such information—are excluded from the CSRs). The Portland office conducts intake, by telephone and in person, for VLP PAI direct referrals. When the Portland office conducts telephone intake for VLP direct referral cases, VLP does not obtain written citizenship attestations or verify eligible alien status prior to making direct referrals in attorney-client match cases. Instead, VLP reminds those private attorneys to return completed citizenship attestation/alienage information when cases are placed and during quarterly status checks and thus VLP does not always review or verify that citizenship/alienage information is obtained by private attorneys *prior to* the provision of legal assistance. In addition, VLP does not review or verify that senior center cases are within priorities *prior to* the provision of legal assistance to

²⁵ All senior clinic participants must meet LASO and LSC priority and citizenship and alienage requirements; however, only those participants who also meet LSC financial criteria are reported in the CSRs.

clients. The lack of prior review and verification of intake information for VLP's senior center and direct referral cases increases the risk that ineligible persons (those whose cases are outside of priorities and/or do not meet LSC citizenship requirements) may be provided legal assistance. *See* 45 CFR §§ 1620 and 1626.6(a).

Forms

LASO's final disposition form does not provide an opportunity for the private attorney to describe the legal assistance given to the client as only information concerning the level of service provided is requested (CSR case closure category ("A"– "L")). LSC requires that each case contain a description of the legal assistance provided to the client. *See* CSR Handbook (2008 Ed., as amended 2011), § 10.5 at FN 58. In addition, LASO does not require its private attorneys to provide settlement documentation as required by the CSR Handbook (2008 Ed., as amended 2011), § 8.3 at FN 48 and § 10.5 at FN 58.

Case oversight and follow-up systems

LASO's follow-up and oversight efforts were found to be insufficient as LASO does not always confirm with clients or private attorneys whether cases are proceeding after placement (initial contact); does not always obtain completed final disposition forms and settlement information (final contact),²⁶ and does not always ensure that compliant citizenship or alienage information is obtained prior to the provision of legal assistance. LASO relies upon its ability to exclude cases from its CSR data submission rather than developing other follow-up and PAI oversight strategies to obtain compliance-related information.²⁷ As LSC requires recipients to ensure that practices conform to regulatory standards and other guidance, LASO's follow-up and case oversight practices must be changed. *See* 45 CFR Part 1626, former 45 CFR § 1614.3(d)(3), and CSR Handbook (2008 Ed., as amended 2011).

Documents reviewed and interviews conducted evidenced that LASO did not comply with the requirements of former 45 CFR Part 1614. Accordingly, as required corrective actions, LASO must distribute its 2015 PAI plan consistent with former 45 CFR § 1614.4(b) (currently found at 45 CFR § 1614.6(b)); require its private attorneys to provide settlement documentation as required by the CSR Handbook (2008 Ed., as amended 2011), §§ 8.3 and 10.5; and strengthen its follow-up and oversight of PAI activities by adopting procedures for the effective oversight of its cases.²⁸ Also, it is recommended that LASO revise its final disposition form so that information

²⁶ LASO reports that is only a minority of private attorneys who fail to return final disposition forms with complete information or fail to return them at all. In addition, LASO reports that it is difficult to obtain settlement documentation from some private attorneys and reports that this information maybe privileged.

²⁷ The VLP Supervising Attorney reported during the onsite visit that she excludes non-compliant cases because calling private attorneys and checking public court dockets is too time intensive for all cases (and not all cases are accessible in the docket). Public electronic docket checks are made for some kinds of cases, such as bankruptcy clinic cases in the Bend office and family law cases in the Salem office.

²⁸ For example, LASO could require its staff to obtain citizenship/alienage information before a case is placed with a private attorney (clinic and direct representation cases); contact the private attorney and/or client within 10 days for all direct representation referrals; and contact a private attorney (periodically) for a status update in the event case update forms are not returned (for example, by telephoning them or checking the court's public electronic docket).

concerning the legal assistance provided can be documented. It is further recommended that LASO allocate all PAI expenses incurred as part of its PAI requirement.

LASO's comments to the DR contained only partial responses to this finding as LASO provided no information as to whether it distributed its 2015 PAI plan consistent with the requirements of 45 CFR § 1614.4(b) and whether it now obtains settlement documentation from PAI attorneys consistent with the CSR Handbook (2008 Ed., as amended 2011). LASO did, however, supply a copy of its revised compliant VLP Case Closure Form and provided comments in support of its case oversight practices.

As a result of LASO's comments to the DR, OCE has incorporated more detailed information concerning specific LASO case oversight practices into the FR. Notwithstanding the additional information, OCE continues to find that LASO's case oversight practices must be changed. First, LSC regulation requires that citizenship/alienage information be obtained from applicants prior to the provision of legal assistance. LASO's efforts are non-compliant because LASO does not review senior center PAI clinic and some direct referral applicants' citizenship/alienage information until after legal assistance has been provided to them. *See* 45 CFR § 1626.1 (to ensure recipients provide legal assistance only to citizens of the United States and eligible aliens) and 45 CFR § 1626.8 (in an emergency, legal services may be provided prior to compliance with §§ 1626.4, 1626.6, and 1626.7). Second, just the mailing of final disposition forms -- that may not be returned -- is an ineffective case oversight practice for initial and final contacts with private attorneys because LASO is not confirming whether cases are proceeding, if legal assistance is being provided, and if cases are dormant. LASO's practices do not comply with the requirements of former 45 CFR § 1614.3(d)(3) (fails to demonstrate timely disposition to achieve the result desired by the client, if possible) and the CSR Handbook (2008 Ed., as amended 2011) (practices that ensure that files contain documentation of legal assistance and are timely closed).

LASO has failed to demonstrate that it has implemented appropriate corrective action and must supply OCE with documentation of the action it has taken to implement RCA No. 6 within 60 days of the issuance of the FR.

Additional Information Requested: Conflict of interest procedures

VLP does not maintain information in its LegalServer ACMS for those senior clinic participants who do not meet LSC financial criteria. Instead, the information is recorded in a separate VLP database for the purpose of creating a Chinese wall. The effectiveness of this Chinese wall is questionable because VLP staff members have access to confidential client information maintained on the LegalServer ACMS database and the confidential senior client information maintained on the separate VLP database. In addition, the VLP Supervising Attorney handles program staff cases in addition to her work on the senior clinics and has access to the confidential client information maintained on both databases. The VLP Supervising Attorney indicated that LASO obtained an opinion from the Oregon State Bar in 1978 approving VLP's information storage practices. The Chinese wall was reviewed again by LASO during 2007 when it implemented LegalServer. At that time LASO determined that its Chinese wall was consistent with Oregon State Bar's ethical requirements.

In order to determine whether VLP's Chinese wall is consistent with the applicable rules of professional responsibility in the State of Oregon, LASO must provide additional information concerning its Chinese wall protocols. *See* 42 USC 2996f §§ 1007 (a)(1) and (10) (LSC is required to ensure the maintenance of the highest quality of professional standards and ensure that attorneys, while engaged in legal assistance activities supported in whole or in part of by LSC funds, refrain from any activity prohibited by the Canons of Ethics and Code of Professional Responsibility of the American Bar Association).

By email on March 5, 2015, LASO provided a copy of a formal ethics opinion its solicited from the Oregon State Bar ("OSB") in 2005 to answer the following questions: (1) whether it was a conflict of interest if LASO, through its Referral Service, referred a potential client to a pro bono lawyer participating in its PAI program and (2) whether LASO could make the referral if the adverse party to the dispute had already been referred to a pro bono lawyer participating in its PAI program. The OSB, after considering Oregon's rules of professional conduct, determined that communications between prospective clients and LASO screeners were subject to protection under RPC 1.18(b) (Duties to prospective clients) as well as under Oregon RPC 1.6(a) (Confidentiality of information). However, LASO as a "firm" was not disqualified merely because one (1) of its lawyers took information from a prospective client in a screening call, *as long as appropriate measures were taken to prevent access to the information by other lawyers in the firm*. By the same analysis, LASO lawyers were not disqualified when a legal assistant gathered information from prospective clients *so long as the information was not available to the lawyers in the firm*. *See* OSB Formal Ethics Opinion No. 2005-138 (August 2005) (Prospective Clients: Legal Aid Services Referrals to Private Lawyers) (emphasis added).

While this formal ethics opinion confirms the need for LASO to take "appropriate measures" to prevent access to information by other lawyers in its firm, the opinion does not address OCE's request that LASO provide information as to whether LASO's specific Chinese wall practices constitute the appropriate measures required by Oregon's ethical rules. OCE specifically requests that LASO provide a third party assessment of whether LASO's Chinese wall is consistent with its professional responsibility duties when: (1) lawyers, who are also case handlers, are afforded access to PAI senior center client case information and program staff client case information (both in LASO's case management system and in paper files); and (2) whether members of management, who may or may not be case handlers, are afforded access to PAI senior center client case information along with program staff client case information (both in LASO's case management system and in paper files) for purposes of supervision, oversight, and grievance resolution.

Based on the information provided by LASO on March 5, 2015, OCE requests that LASO, within 60 days of the issuance of this FR, provide OCE with a third party assessment of whether LASO's Chinese wall practices are consistent with the applicable rules of professional responsibility in the State of Oregon.

Finding 18: Documents reviewed and interviews conducted evidenced that LASO now complies with the requirements of 45 CFR § 1627.4(a) (Prohibition against the use of LSC funds to pay non-mandatory membership fees or dues).

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.²⁹ 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 \$25,000.00 or less for the direct provision of legal assistance to eligible clients. *See* 45 CFR §§ 1627.2(b)(1) and (b)(2).

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%. Minor changes of work program, or changes in funding less than 10% 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 may 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 45 CFR Part 1627 and shall maintain records sufficient to document the recipient's compliance with 45 CFR Part 1627. *See* 45 CFR § 1627.8.

LASO did not subgrant funds during the review period.

The onsite review evidenced that from 2010 through 2012, LASO used LSC funds to pay non-mandatory membership dues and fees in the amounts of \$3,647.78 (\$1,731.58 during 2010;

²⁹ 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 \$25,000.00 is included.

\$1,606.00 during 2011; and \$310.20 during 2012). The onsite review further evidenced that no LSC funds were used to pay these expenses during 2013 and 2014. At the conclusion of the onsite review, LASO paid \$3,647.78 to LSC to correct and resolve its error.

This matter was concurrently the subject of an Office of Inspector General (“OIG”) question cost referral, with the referral time period commencing in 2009. *See* OIG Report on LASO’s Selected Internal Controls (issued June 2014) (“OIG cost referral”). During the onsite review, LASO’s membership fees and dues expenses were reviewed for the period from 2009 to present; however, only payments made since 2010 were subject to recoupment due to the five (5) year regulatory statute of limitations on the disallowance of costs. *See* 45 CFR § 1630.7(b). LASO’s payment of \$3,647.78 to OCE during the onsite review resolved and concluded LSC management’s investigation of the OIG question cost referral, which is now considered closed.

Documents reviewed and interviews conducted evidenced that LASO now complies with the requirements of 45 CFR § 1627.4(a).

There are no recommendations or required corrective actions.

Finding 19: Documents reviewed and interviews conducted evidenced that LASO complies with the requirements of 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. Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity. Time records must be created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient. Each record of time spent must contain: for a case, a unique client name or case number; for matters or supporting activities, an identification of the category of action on which the time was spent.

The timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type. Recipients shall require any attorney or paralegal who works part-time for the recipient and part-time for an organization that engages in restricted activities to certify in writing that the attorney or paralegal has not engaged in restricted activity during any time for which the attorney or paralegal was compensated by the recipient or has not used recipient resources for restricted activities.

Review of a sampling of 2013 and 2014 case handler (attorney and paralegal) time and attendance and case activity time records evidenced that time spent on individual case-related activities was contemporaneously and electronically recorded in the ACMS in six (6) minute increments and that case handling staff met or exceeded the minimum number of hours that they were required to work. Materials submitted in advance of the review and interviews conducted during the onsite review evidenced that no attorneys or paralegals employed by LASO were also employed by an organization that engages in restricted activities.

Documents reviewed and interviews conducted evidenced that LASO complies with the requirements of 45 CFR Part 1635.

There are no recommendations or required corrective actions.

Finding 20: Cases and documents reviewed evidenced that LASO complies with the requirements of former 45 CFR Part 1642 (Attorneys' fees) and LSC's recordkeeping requirements.

Prior to December 16, 2009, except as otherwise provided by LSC regulations, recipients could not claim, or collect and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* 45 CFR § 1642.3.³⁰ However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was lifted. Thereafter, 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. Enforcement action will not be taken 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. *See* LSC Program Letter 10-1 (February 18, 2010).³¹

A review of a sampling of accounting documents evidenced that LASO's financial procedures for the receipt of attorneys' fees complies with LSC requirements. When a fee is received from an opposing party, a case handler completes an attorneys' fee receipt form (that details the nature and amount of the fee received) and attaches a copy of relevant documents (fee award and summary of costs) to the completed form. The form is then submitted to the financial department where it is reviewed and entered on the general ledger and AFS as derivative income (LSC fund). During 2013, LASO recorded attorneys' fee cash receipts in the amount of \$86,168.00 on its general ledger and designated fees in the amount of \$86,013.45 as derivative income to LSC on that year's AFS.

³⁰ The regulations define "attorneys' fees" as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client's retroactive statutory benefits. *See* 45 CFR § 1642.2(a).

³¹ Recipients are reminded that the regulatory provisions regarding fee-generating cases, accounting for and use of attorneys' fees, and acceptance of reimbursement remain in force and violation of these requirements, regardless of when they occur, may subject the recipient to compliance and enforcement action.

Case review evidenced no prayers for attorneys' fees prior to December 16, 2009, and documentation provided by the Director of Finance evidenced that LASO was not involved in such activity prior to December 16, 2009. LASO's receipt and treatment of attorneys' fees complies with LSC financial recordkeeping requirements.

Cases and documents reviewed evidenced that LASO complies with the requirements of former 45 CFR Part 1642 and LSC's recordkeeping requirements.

There are no recommendations or required corrective actions.

Finding 21: Cases and documents reviewed, interviews conducted, as well as review of post-visit information provided by LASO, evidenced that LASO now complies with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities) and that its revised policy complies these requirements.

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

After OCE's assessment of the policy in effect at the time of the onsite review, LASO was required to revise its policy on legislative, lobbying, and administrative advocacy activities so as to limit LASO from participating *in or conducting a training program to develop strategies to influence legislation and rulemaking and from training participants to engage in activities prohibited by the LSC Act, regulations, guidelines, instructions, or other applicable law*. After the onsite review, by email dated November 3, 2014, LASO provided its revised policy to OCE. OCE's review of the policy evidenced that it now complies with 45 CFR §§ 1612.8(a)(2) and (4).

Case review evidenced that LASO is not engaged in any lobbying or other prohibited administrative advocacy activities. However, interviews with the Executive Director and the Director of Administration, as well as a review of LASO's semi-annual legislative and administrative advocacy reports compared to sampled timekeeping records evidenced that LASO failed to include all permissible legislative activities in its semi-annual submissions to LSC. Moreover, onsite review of LASO's financial operations evidenced there were no procedures in place to document the use of non-LSC funds expended on these activities. After the onsite review, by email dated November 3, 2014, LASO submitted its amended its semi-annual legislative and administrative advocacy reports to include omitted activities (January-June 2014) to OCE. On November 24, 2014, by email, LASO advised OCE that it had revised its oversight procedures and supplied OCE with copies of its procedures. LASO now has in place procedures and practices that require staff to document legislative and administrative activities and which allow management to easily oversight these activities. In addition, the fiscal department

developed additional procedures to ensure that any expenses associated with these activities are allocated to LSC and non-LSC funding sources as appropriate.

Cases and documents reviewed and interviews conducted, as well as review of post-visit information, evidenced that LASO now complies with the requirements of 45 CFR Part 1612.

There are no recommendations or required corrective actions.

Finding 22: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on criminal representation and collateral attacks).

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.

LASO's policy containing its restrictions on criminal representation and collateral attacks complies with the requirements of 45 CFR Parts 1613 and 1615. Interviews conducted and cases reviewed evidenced that LASO does not use LSC funds to provide such assistance and is not involved in such activities.

Cases and documents reviewed, as well as interviews conducted, evidenced that LASO complies with the requirements of 45 CFR Parts 1613 and 1615.

There are no recommendations or required corrective actions.

Finding 23: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies 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 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).³²

LASO's policy on class actions complies with the requirements of 45 CFR Part 1617. Case review evidenced that LASO does not initiate or participate in class actions. In addition,

³² 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).

interviews with the Director of Administration and intermediaries evidenced that LASO is not involved in such activities.

Cases and documents reviewed, as well as interviews conducted, evidenced that LASO complies with the requirements of 45 CFR Part 1617.

There are no recommendations or required corrective actions.

Finding 24: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies 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.

LASO's policy on redistricting complies with the requirements of 45 CFR Part 1632. Case review evidenced that LASO does not participate in litigation related to redistricting. In addition, interviews with the Director of Administration and intermediaries evidenced that LASO is not involved in such activities.

Cases and documents reviewed, as well as interviews conducted, evidenced that LASO complies with the requirements of 45 CFR Part 1632.

There are no recommendations or required corrective actions.

Finding 25: Cases and documents reviewed, interviews conducted, as well as review of post-visit information provided by LASO, evidenced that LASO complies with 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings) and that its revised policy complies with these requirements.

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

After OCE's assessment of the policy in effect at the time of the onsite review, LASO was required to revise its policy containing its restrictions on representation in certain eviction proceedings so as to limit LASO from representing persons who have been *charged or convicted of the illegal manufacture of a controlled substance, or possession of a controlled substance with intent to sell or distribute*. After the onsite review, by email dated November 3, 2014, LASO provided its revised policy to OCE. OCE's review of the policy evidenced that it now complies with 45 CFR § 1633.3(a).

Case review evidenced that LASO does not defend persons in prohibited eviction proceedings. In addition, interviews with the Director of Administration and intermediaries evidenced that LASO is not involved in such activities.

Cases and documents reviewed and interviews conducted, as well as review of post-visit information, evidenced that LASO complies with 45 CFR Part 1633 and that its revised policy complies with these requirements.

There are no recommendations or required corrective actions.

Finding 26: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies 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.

LASO's policy containing its restrictions on representation of prisoners complies with the requirements of 45 CFR Part 1636. Case review evidenced that LASO does not represent prisoners. In addition, interviews with the Director of Administration and intermediaries evidenced that LASO is not involved in such activities.

Cases and documents reviewed, as well as interviews conducted, evidenced that LASO complies with the requirements of 45 CFR Part 1637.

There are no recommendations or required corrective actions.

Finding 27: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies 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.³³ This restriction has been contained in all subsequent appropriations acts.³⁴ 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: "This part is designed to ensure that recipients and their employees do not solicit clients."

³³ *See* Section 504(a)(18).

³⁴ *See* Pub. L. 108-7, 117 Stat. 11 (2003) (FY 2003), Pub. L. 108-199, 118 Stat. 3 (2004) (FY 2004), Pub. L. 108-447, 118 Stat. 2809 (2005) (FY 2005), and Pub. L. 109-108, 119 Stat. 2290 (2006) (FY 2006).

LASO's policy containing its restriction on solicitation complies with the requirements of 45 CFR Part 1638. Case review evidenced that LASO does not solicit clients. In addition, interviews with the Director of Administration and intermediaries evidenced that LASO is not involved in such activities.

Cases and documents reviewed, as well as interviews conducted, evidenced that LASO complies with the requirements of 45 CFR Part 1638.

There are no recommendations or required corrective actions.

Finding 28: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing representation).

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

LASO's policy containing its restrictions on assisted suicide, euthanasia, and mercy killing representation complies with the requirements of 45 CFR Part 1643. Case review and interviews with the Director of Administration and intermediaries evidenced that LASO is not involved in such activities.

Cases and documents reviewed, as well as interviews conducted, evidenced that LASO complies with the requirements of 45 CFR Part 1643.

There are no recommendations or required corrective actions.

Finding 29: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies with 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.

LASO's policies on abortion, school desegregation litigation, and military selective service act or desertion comply with the requirements of 42 USC 2996f § 1007 (a) (8), 42 USC 2996f § 1007 (a) (9), and 42 USC 2996f § 1007 (a) (10). Case review and interviews with the Director of Administration and intermediaries evidenced that LASO is not engaged in such activities.

Cases and documents reviewed, as well as interviews conducted, evidenced that LASO complies with certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8), 42 USC 2996f § 1007 (a) (9), and 42 USC 2996f § 1007 (a) (10)).

There are no recommendations or required corrective actions.

Finding 30: Cases and documents reviewed, as well as interviews conducted evidenced that LASO complies with the requirements of 45 CFR Part 1639 (Restriction on welfare reform).

Except as provided in 45 CFR §§ 1639.4 and 1639.5, recipients may not initiate legal representation, or participate in any other way in litigation, lobbying or rulemaking, involving an effort to reform a Federal or State welfare system. Under 45 CFR § 1639.6 a recipient is required to adopt written policies and procedures to guide its staff in complying with 45 CFR Part 1639.

LASO's policy containing its restrictions on efforts to reform the welfare system complies with the requirements of 45 CFR Part 1639. Cases reviewed and interviews with the Director of Administration and intermediaries evidenced that LASO is not involved in such activities.

Cases and documents reviewed, as well as interviews conducted, evidenced that LASO complies with the requirements of 45 CFR Part 1639.

There are no recommendations or required corrective actions.

Finding 31: Documents reviewed evidenced that LASO complies with the requirements of 45 CFR Part 1644 (Disclosure of case information).

In accordance with 45 CFR Part 1644, recipients are directed to disclose certain information to the public and to LSC on cases filed in court by the recipient's attorneys. This Part applies in the following instances: to actions filed on behalf of plaintiffs or petitioners who are clients of the recipient; only to the original filing of a case, except for appeals filed in appellate courts by a recipient if the recipient is not the attorney of record in the case below and the recipient's client is the appellant; to a request filed on behalf of a client of the recipient in a court of competent jurisdiction for judicial review of an administrative action; and to cases filed pursuant to subgrants under 45 CFR Part 1627 for the direct representation of eligible clients, except for subgrants for private attorney involvement activities under 45 CFR Part 1614. *See* 45 CFR § 1644.3.

A review of LASO's policy on the disclosure of case information found it to be consistent with the requirements of 45 CFR Part 1644.

There are no recommendations or required corrective actions.

Finding 32: Documents reviewed and interviews conducted evidenced that LASO complies with the requirements of 45 CFR § 1629.1 (Bonding of recipients).

Recipients are required to maintain fidelity bond coverage in minimum amounts of \$50,000.00 or 10% of its annualized LSC funding level (from the previous fiscal year or of the initial grant or contract, if the program is a new grantee or contractor). *See* 45 CFR § 1629.1.

LASO is required to maintain a fidelity bond in the amount of \$364,550.00 as a result of its receipt of LSC funding in the amount of \$3,645,500.00). The onsite review evidenced that LASO maintains a bond in the amount of \$1,000,000.00 and that LASO's fidelity bond coverage exceeds LSC's requirements for such coverage.

Documents reviewed and interviews conducted evidenced that LASO complies with the requirements of 45 CFR § 1629.1.

There are no recommendations or required corrective actions.

Finding 33: Documents reviewed and interviews conducted evidenced that LASO complies with the recommendations contained in the Accounting Guide concerning financial management and oversight by a board of directors.

A recipient's board of directors is required to exercise financial oversight over the operation of the recipient's activities. *See* Accounting Guide, § 1-7.

Sampled review of LASO's investment policy (May 22, 2012); financial resolution (May 8, 2014); board minutes (from meetings held on March 3, 2013, May 11, 2013, September 21, 2013, March 8, 2014, and May 31, 2014); executive committee minutes (February 27, 2013, April 17, 2013, May 8, 2013, September 18, 2013, January 29, 2014, and April 16, 2014); and 2013 IRS Form 990 responses, as well as interviews with the President (attorney) and the Treasurer (certified public accountant), evidenced that the board of directors is actively involved in LASO's financial operations. All members of the board approve key employee salaries and the IRS Form 990. In addition, the board has adopted whistle-blower protection and conflicts of interest policies. Finally, the board meets with the independent public auditor, reviews monthly financial management reports, and makes recommendations about fiscal policies. With regard to accounting and reporting practices, LASO's board of directors fulfills its fiduciary responsibilities and duties in accordance with LSC requirements.

Documents reviewed and interviews conducted evidenced that LASO complies with the recommendations contained in the Accounting Guide concerning financial management and oversight by a board of directors.

There are no recommendations or required corrective actions.

Finding 34: Documents reviewed and interviews conducted, as well as the review of post-visit information provided by LASO, evidenced that LASO now complies with the recommendations contained in the Accounting Guide concerning internal controls and segregation of duties for cash receipts, cash disbursements, and bank reconciliations.

In accepting LSC funds, recipients agree to administer these funds in accordance with requirements of the LSC Act, any applicable appropriations acts and any other applicable law, rules, regulations, policies, guidelines, instructions, and other directives of the LSC, including, but not limited to, LSC Audit Guide for Recipients and Auditors, the Accounting Guide, the Property Acquisition and Management Manual, and any amendments to the foregoing. Applicants agree to comply with both substantive and procedural requirements, including recordkeeping and reporting requirements.

An LSC recipient, under the direction of its board of directors, is required to establish and maintain adequate accounting records and internal control procedures. Internal control is defined as a process effected by an entity's governing body, management and other personnel, designed to provide reasonable assurances regarding the achievement of objectives in the following categories: (1) effectiveness and efficiency of operations; (2) reliability of financial reporting; and (3) compliance with applicable laws and regulations. *See* Chapter 3 of the Accounting Guide.

The Accounting Guide provides guidance on all aspects of fiscal operations. Its Accounting Procedures and Internal Control Checklists provide guidance to programs on how accounting procedures and internal control can be strengthened and improved with the goal of eliminating or at least reducing as much as reasonably possible, opportunities for fraudulent activities to occur.

Vendor disbursements

A review of LASO's procedures and two (2) sampled vendor files and contracts (LegalServer and DaVinci Digital) evidenced that LASO complies with the recommendations contained in the Accounting Guide for vendor disbursements and contracting. Sampled invoices were dated and indicated business purpose, payment, approval, check number, general ledger number, and funding code. In addition, the sampled contracts were detailed as to deliverables and itemized costs. *See Accounting Guide, § 3-5.16.*

Payroll disbursements

A review of LASO's payroll procedures, payroll files of four (4) employees, and payroll records for two (2) payroll periods evidenced that LASO maintains accounting control over the operation of its personnel payroll program and segregation of payroll duties in accordance with the recommendations contained in the Accounting Guide. Duties are segregated as the administrative office solicits and obtains employee hire and termination information³⁵ while the financial office processes and stores the information. Further, time is entered into the ACMS by staff, approved by management, and then compared against payroll records by financial staff. *See Accounting Guide, Appendix VII.*

Travel expense disbursements

A review of LASO's policies, procedures, and travel expenses of the Executive Director and six (6) staff members (as well as review of the completed Segregation of Financial Duties Worksheet) evidenced that LASO complies with the recommendations contained in the Accounting Guide concerning travel disbursements. All sampled travel expense reports and disbursements indicated the amount and the business purpose of the expense and contained evidence that the expense was approved by a manager (for staff travel) or by a member of the board (for travel by the Executive Director). *See Accounting Guide, Appendix VII.*

In its comments in response to the DR, LASO indicated that the Executive Director's travel expenses were approved by the Director of Administration or the Director of Finance. As a proper internal control, an employee's expense disbursements should be reviewed and approved by a supervisor and thus the Board of Directors, who are the supervisors of the Executive Director, should be responsible for the review and approval of the Executive Director's travel disbursements. The review and approval may be either before or after an expense is incurred.

It is recommended that LASO develop and implement procedures that require a member of LASO's Board of Directors to periodically review and approve Executive Director travel expense disbursements.

³⁵ LASO obtains the following information as part of its personnel records: I-9s, IRS W-4s, personal identity documents, direct deposit authorizations, resumes, employment applications, and salary, benefit, and termination information.

Credit card disbursements

A review of LASO's procedures and a review of sampled credit card transactions and statements evidenced that LASO complies with the recommendations contained in the Accounting Guide concerning the use of corporate credit cards. All sampled credit card receipts and other documents (supporting card charges) indicated its business purpose and confirmed the nature and amount of the charge. In addition, the onsite review evidenced that charges were paid timely and in full on a monthly basis. *See Accounting Guide, § 3-5.4(c).*

Client trust account reconciliations

A review of LASO's policies, procedures, and sampled client trust account reconciliations (as well as review of the completed Segregation of Financial Duties Worksheet) evidenced that LASO maintains its client trust accounts consistent with the recommendations contained in the Accounting Guide. There were no funds requiring escheatment during the review period. *See Accounting Guide, Appendix V and VII.*

Bank reconciliations

A review of LASO's policies, procedures, and sampled bank account reconciliations evidenced that, LASO complies with the bank account reconciliation recommendations contained in the Accounting Guide.

Cash receipts and petty cash disbursements

LASO's cash receipts and petty cash procedures are maintained in its Accounting Manual and as part of its regional office procedures. A review of LASO's cash receipts and petty cash disbursements procedures and practices evidenced the timely reconciliation of cash receipts and petty cash disbursements; however, weaknesses were identified with the segregation of those duties because the Director of Finance supervises employees who perform cash receipts and disbursements duties and performs cash receipts and disbursement duties himself. A review of the duties evidenced that the Finance Director opens mail, records cash receipt information, restrictively endorses received checks, prepares checks for deposit, and maintains records of these activities. The Accountant, who is supervised by the Director of Finance, makes the deposits and posts the cash receipts to LASO's accounts. In addition, the Director maintains possession of the Portland's petty cash funds, disburses petty cash funds, and prepares the petty cash records for these funds. *See Accounting Guide, § 3-5.4.*

During the onsite review, LASO indicated that a staff vacancy resulted in the Director of Finance assuming the cash receipts and petty cash fund duties previously performed by the administrative staff member. After the onsite review, LASO notified OCE, by email, on December 18 and 22, 2014, that it temporarily restored adequate segregation of duties by reassigning the Director of Finance's cash disbursement duties to other administrative staff members. LASO then notified OCE, by email dated February 4, 2015, that it had resolved its segregation of duties deficiency by the hire of an administrative support staff member to perform cash receipts and petty cash fund duties.

Documents reviewed and interviews conducted, as well as the review of post-visit information, evidenced that LASO now complies with the recommendations contained in the Accounting Guide concerning internal controls and segregation of duties for cash receipts, cash disbursements, and bank reconciliations.

There are no recommendations or required corrective actions.

Finding 35: Documents reviewed and interviews conducted evidenced that LASO's accounting and financial reporting operations, with limited exceptions, compares favorably to LSC's Fundamental Criteria of an Accounting and Financial Reporting System for LSC Recipients.

Recipients, under the direction of its board of directors, are required to establish and maintain procedures and records that describe the specific procedures to be followed by the recipient in complying with the Fundamental Criteria. *See* Accounting Guide, § 3-5.

Automation of financial information

LASO's accounting software (Sage MIP) enables it to perform fund accounting consistent with the Accounting Guide and generate automated financial reports. The software is password protected and is maintained on LASO's office servers which are backed-up regularly.

Maintenance of financial policies and procedures

LASO maintains policies and procedures to guide management and staff in fiscal and regulatory matters. In addition, LASO maintains policies and procedures for the acquisition, control, and disposition of real and personal property. LASO's policies and procedures are widely accessible (available on the employee intranet) and are updated regularly on an ongoing basis (for example, LASO's accounting manual was updated during 2014).

LASO, however, fails to maintain an electronic banking policy (because it engages in limited electronic banking activities) and its accounting manual does not include procedures for surprise reviews of its petty cash funds.

Finally, LASO fails to document its cost allocation process with the level of detail that would enable an auditor (LSC, OIG, etc.) to easily understand, follow, and test its formula. *See* Accounting Guide, § 3-5.9(c). The onsite review evidenced that while LASO's cost allocation policy is maintained in its accounting manual; such policy does not detail the step-by-step process LASO follows to create and maintain expense allocations nor does it describe the categories of expenses, that can and cannot be allocated to the LSC grant, such as alcohol purchases, non-mandatory dues, late fees and penalties, interest on debts, and capital expenditures, etc.

Documents reviewed and interviews conducted evidenced that LASO's accounting and financial reporting operations, with limited exceptions, compares favorably to LSC's Fundamental Criteria of an Accounting and Financial Reporting System for LSC Recipients. As a required corrective action, LASO must document its cost allocation process in writing with sufficient detail for others to easily understand, follow, and test by including in its policy the expenses that can and cannot be allocated to the LSC grant. In addition, as a further required corrective action, LASO must draft and implement electronic banking procedures which comply with the Accounting Guide. *See Accounting Guide, § 3-5.15.* Also, it is recommended that LASO implement procedures for the surprise reviews of petty cash funds.

On March 5 and April 23, 2015, by email, LASO provided OCE with a copy of its revised cost allocation process, as contained in its accounting manual, which now details that certain costs cannot be charged to the LSC fund, such as alcohol, late fees, finance charges, some types of bar dues and membership fees, and any other expenditures that are not reasonable and necessary for the performance of the grant or contract. In addition, LASO, by email, on April 23, 2015, provided an explanation as to how costs are segregated and allocated consistent with LSC requirements.

By emails on March 5 and April 20, 2015, LASO provided OCE with a copy of its revised electronic banking procedures (as contained in its accounting manual and as approved by the executive committee of its Board of Directors on March 4, 2015). These procedures limit the use of LASO initiated electronic transfers to the payment of certain payroll and 401(K) account expenses and details the procedures and safeguards that LASO uses to prevent an employee from expanding the use of electronic disbursements beyond those authorized by its Board of Directors.

Based on the information provided by LASO by email on March 5, April 20, and April 23, 2015, OCE finds that LASO has implemented RCA Nos. 7 and 8 and hereby considers these required corrective actions closed.

V. RECOMMENDATIONS³⁶

Consistent with the findings of this report, it was recommended that LASO:

1. Implement mandatory and standard open and closed case procedures throughout its offices (for case handlers and members of management), which should include the review of compliance-related information for both limited services and extended service case (Finding Nos. 1, 2, 5, 6, 9, 10, and 11);
2. Instruct all staff to request information about an applicant's reasonable income prospects as part of every income eligibility screening (Finding No. 2);
3. Conduct periodic staff training to clarify CSR requirements and ensure proper application of case closure categories consistent with Chapter IX of the CSR Handbook (2008 Ed., as amended 2011) (Finding No. 10);
4. Revise its PAI final disposition form so that information concerning the legal assistance provided can be documented (Finding No. 17);
5. Allocate all PAI expenses incurred as part of its PAI requirement (Finding No. 17);
6. Implement procedures for surprise reviews of petty cash funds as recommended by the Accounting Guide, § 3-5.4(c) to reduce opportunities of misuse of petty cash. (Finding No. 35); and
7. Develop and implement procedures that require a member of LASO's Board of Directors to periodically review and approve Executive Director travel expense disbursements consistent with the requirements of the Accounting Guide, § 3-6 (Finding No. 34).

In its comments in response to the DR, LASO indicated that the Executive Director's travel expenses were approved by the Director of Administration or the Director of Finance. As a proper internal control, an employee's expense disbursements should be reviewed and approved by a supervisor and thus the Board of Directors, who are the supervisors of the Executive Director, should be responsible for the review and approval of the Executive Director's travel disbursements. The review and approval may be either before or after an expense is incurred.

³⁶ Items appearing in the "Recommendations" section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE's experience, could help the program with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors. By contrast, the items listed in "Required Corrective Actions" must be addressed by the program, and will be enforced by LSC.

VI. REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this report, LASO was required to take the following corrective actions:

1. Require that cases contain evidence of reasonable income prospects screening consistent with 45 CFR § 1611.7(a) (Finding No. 2);

LASO's comments to the DR contained no response to this finding. Accordingly, LASO failed to demonstrate that appropriate corrective action was implemented and must supply OCE with documentation of the action it has taken to implement RCA No. 1 within 60 days of the issuance of the FR.

2. Require that all case files contain timely and properly executed written citizenship attestations, or verifications of alien eligibility, pursuant to 45 CFR Part 1626 and CSR Handbook (2008 Ed., as amended 2011), § 5.5, where appropriate (Finding No.5);

LASO's comments to the DR contained no response to this finding. Accordingly, LASO failed to demonstrate that appropriate corrective action was implemented and must supply OCE with documentation of the action it has taken to implement RCA No. 2 within 60 days of the issuance of the FR.

3. Require that all files contain timely and properly executed retainer agreements, where required, pursuant to 45 CFR § 1611.9 (Finding No. 6);

LASO's comments to the DR contained no response to this finding. Accordingly, LASO failed to demonstrate that appropriate corrective action was implemented and must supply OCE with documentation of the action it has taken to implement RCA No. 3 within 60 days of the issuance of the FR.

4. Require that all case files contain documentation of legal assistance in accordance with the CSR Handbook (2008 Ed., as amended 2011), §§ 5.6 and 10.5, where appropriate (Finding No. 9);

LASO's comments to the DR contained no response to this finding. Accordingly, LASO failed to demonstrate that appropriate corrective action was implemented and must supply OCE with documentation of the action it has taken to implement RCA No. 4 within 60 days of the issuance of the FR.

5. Require that cases are closed in a timely manner and that no cases are dormant in accordance with the CSR Handbook (2008 Ed., as amended 2011), §§ 3.3 and 10.3, where appropriate (Finding No. 11);

LASO's comments to the DR contained no response to this finding. Accordingly, LASO failed to demonstrate that appropriate corrective action was implemented and must supply OCE with documentation of the action it has taken to implement RCA No. 5 within 60 days of the issuance of the FR.

6. Distribute its 2015 PAI plan consistent with 45 CFR § 1614.4(b); require its private attorneys to provide settlement documentation as required by the CSR Handbook (2008 Ed., as amended 2011), § 8.3 at FN 48 and § 10.5 at FN 58; and strengthen its follow-up and oversight of PAI activities by adopting procedures for the effective oversight of its cases (Finding No. 17);

LASO's comments to the DR contained only partial responses to this finding as LASO provided no information as to whether it distributed its 2015 PAI plan consistent with the requirements of 45 CFR § 1614.4(b) and whether it now obtains settlement documentation from PAI attorneys consistent with the CSR Handbook (2008 Ed., as amended 2011). LASO did, however, supply a copy of its revised compliant VLP Case Closure Form and provided comments in support of its case oversight practices, including information that it does participate in follow-up activities to obtain citizenship attestation/alienage verification and case update information after senior clinics are held and after direct referral cases are placed. Also, it confirms that private attorneys are proceeding with referred cases by its practice of sending out final disposition forms at the time of referral and at other times and that public electronic dockets are sometimes checked when final disposition forms are not returned.

As a result of LASO's comments to the DR, OCE has incorporated more detailed information concerning specific LASO case oversight practices into the FR. Notwithstanding the additional information, OCE continues to find that LASO's case oversight practices must be changed. First, LSC regulation requires that citizenship/alienage information be obtained from applicants prior to the provision of legal assistance. LASO's efforts are non-compliant because LASO does not review senior center PAI clinic and some direct referral applicants' citizenship/alienage information until after legal assistance has been provided to them. *See* 45 CFR § 1626.1 (to ensure recipients provide legal assistance only to citizens of the United States and eligible aliens) and 45 CFR § 1626.8 (in an emergency, legal services may be provided prior to compliance with §§ 1626.4, 1626.6, and 1626.7). Second, just the mailing of final disposition forms -- that may not be returned -- is an ineffective case oversight practice for initial and final contacts with private attorneys because LASO is not confirming whether cases are proceeding, if legal assistance is being provided, and if cases are dormant. LASO's practices do not comply with the requirements of former 45 CFR § 1614.3(d)(3) (fails to demonstrate timely disposition to achieve the result desired by the client, if possible) and the CSR

Handbook (2008 Ed., as amended 2011) (practices that ensure that files contain documentation of legal assistance and are timely closed).

LASO has failed to demonstrate that it has implemented appropriate corrective action and must supply OCE with documentation of the action it has taken to implement RCA No. 6 within 60 days of the issuance of the FR.

7. Document its cost allocation process in writing with sufficient detail for others, to easily understand, follow, and test by including in its policy the expenses that can and cannot be allocated to the LSC grant, such as alcohol purchases, non-mandatory due, late fees and penalties, interest on debts, and capital expenditures, etc. (Finding No. 35); and

On March 5 and April 23, 2015, by email, LASO provided OCE with a copy of its revised cost allocation process, as contained in its accounting manual, which now details that certain costs cannot be charged to the LSC fund, such as alcohol, late fees, finance charges, some types of bar dues and membership fees, and any other expenditures that are not reasonable and necessary for the performance of the grant or contract. In addition, LASO, by email, on April 23, 2015, provided an explanation as to how costs are segregated and allocated consistent with LSC requirements.

Based on the information provided by LASO by email on March 5 and April 23, 2015, OCE finds that LASO has implemented RCA No. 7 and hereby considers this required corrective action item closed.

8. Develop and implement procedures for electronic banking that addresses the requirements of the Accounting Guide, § 3-5.15 and the recommendations contained in Appendix VII, § M. (Finding No. 35).

By emails on March 5 and April 20, 2015, LASO provided OCE with a copy of its revised electronic banking procedures (as contained in its accounting manual and as approved by the executive committee of its Board of Directors on March 4, 2015). These procedures limit the use of LASO initiated electronic transfers to the payment of certain payroll and 401(K) account expenses and details the procedures and safeguards that LASO uses to prevent an employee from expanding the use of electronic disbursements beyond those authorized by its Board of Directors.

Based on the information provided by LASO, by email, on March 5 and April 20, 2015, OCE finds that LASO has implemented RCA No. 8 and hereby considers this required corrective action item closed.

VII. ADDITIONAL INFORMATION REQUIRED

The DR instructed LASO to obtain additional information concerning its Chinese wall protocols and provide OCE with an explanation of whether its procedures are consistent with applicable rules of professional responsibility in the State of Oregon (Finding No. 17).

By email on March 5, 2015, LASO provided a copy of a formal ethics opinion its solicited from the Oregon State Bar (“OSB”) in 2005 to answer the following questions: (1) whether it was a conflict of interest if LASO, through its Referral Service, referred a potential client to a pro bono lawyer participating in its PAI program and (2) whether LASO could make the referral if the adverse party to the dispute had already been referred to a pro bono lawyer participating in its PAI program. The OSB, after considering Oregon’s rules of professional conduct, determined that communications between prospective clients and LASO screeners were subject to protection under RPC 1.18(b) (Duties to prospective clients) as well as under Oregon RPC 1.6(a) (Confidentiality of information). However, LASO as a “firm” was not disqualified merely because one (1) of its lawyers took information from a prospective client in a screening call, *as long as appropriate measures were taken to prevent access to the information by other lawyers in the firm*. By the same analysis, LASO lawyers were not disqualified when a legal assistant gathered information from prospective clients *so long as the information was not available to the lawyers in the firm*. See OSB Formal Ethics Opinion No. 2005-138 (August 2005) (Prospective Clients: Legal Aid Services Referrals to Private Lawyers) (emphasis added).

While this formal ethics opinion confirms the need for LASO to take “appropriate measures” to prevent access to information by other lawyers in its firm, the opinion does not address OCE’s request that LASO provide information as to whether LASO’s specific Chinese wall practices constitute the appropriate measures required by Oregon’s ethical rules. OCE specifically requests that LASO provide it with a third party assessment of whether LASO’s Chinese wall is consistent with its professional responsibility duties when: (1) lawyers, who are also case handlers, are afforded access to PAI senior center client case information and program staff client case information (both in LASO’s case management system and in paper files); and (2) whether members of management, who may or may not be case handlers, are afforded access to PAI senior center client case information along with program staff client case information (both in LASO’s case management system and in paper files) for purposes of supervision, oversight, and grievance resolution.

Based on the information provided by LASO on March 5, 2015, OCE requests that LASO, within 60 days of the issuance of this FR, provide OCE with a third party assessment of whether LASO’s Chinese wall practices are consistent with the applicable rules of professional responsibility in the State of Oregon.

VIII. ADDITIONAL ACTION REQUIRED

The DR instructed LASO to discontinue use of its “client executing” retainer agreements and required LASO in its comments to the DR, to provide a retainer agreement that requires execution by both the case handler and the client (including the dates of the signatures) (Finding No.6).

In its comments submitted in response to the DR, LASO agreed that it would begin to execute retainer agreements along with its clients. LASO proposed two (2) alternative signature options: LASO would either pre-print the signature “Legal Aid Society of Oregon, Inc.” on its retainer agreements or it would print retainer agreements with blank signature lines for individual case handlers to complete with clients (both signature options require that agreements be dated by the case handlers). It was LASO’s position that both signature options were valid executions and enforceable under Oregon law and “would in no way affect LASO's interpretation of its obligations to its clients.” LASO preferred the pre-printed signature option because it allowed LASO to reduce the time spent on the review of retainer agreements for signature compliance during annual CSR self-inspections and when files are opened and closed. LASO further indicated, in its comments to the DR, that “although the time involved in signing the retainer may seem miniscule, the total amount of program resources involved in signing and review for several thousand cases each year was not insignificant.”

Based upon OCE’s review of LASO’s comments and proposed signature options submitted in response to the DR, and in consultation with the LSC’s Office of Legal Affairs, LSC has determined that it is professionally desirable and consistent with LSC regulation to require individual LASO case handlers to contemporaneously sign retainer agreements with their clients. *See* 45 CFR § 1611.9 (the recipient shall execute a written retainer agreement *with* the client). Accordingly, LASO is instructed not to use the pre-printed signature option. Finally, use of the retainer agreement format that contains a blank signature and date line for individual case handlers to complete with their clients fully implements this required additional action.

As LASO indicated, in its comments to the DR, that it will implement either proposed signature option selected by LSC, this required additional action item will be closed by LASO implementing the retainer agreement format with the blank signature and date line. LASO should provide OCE with confirmation of the date on which the retainer agreement with the blank signature and date line went into effect, as well as copies of any directives provided to LASO staff regarding usage of the form. This information should be provided within 60 days of the issuance of this FR.



Centml Administrative Office • 520 SW Sixth Avenue, Suite 1130 • Portland, OR 97204 • (503) 224 4094 • Fax: (503) 417-0147

April 8, 2015

Lora Rath, Director
Office of Compliance and Enforcement
Legal Services Corporation
3333 K Street NW, 3rd Floor
Washington, DC 20007-3522

RE: Comments on Draft Compliance Report

Dear Ms. Rath:

Thank you for providing us with the Draft Report from the on-site Compliance Review of Legal Aid Services of Oregon (LASO). I write to provide comments on the draft. Some comments are substantive and some point out relatively minor inaccuracies in the draft.

Page 1, Footnote 1, Line 1 -The office referred to as "Lincoln City" should be "Lincoln County."

Page 8, Finding 2, Line 7- The draft refers to LASO's "main and branch offices." All LASO offices are considered regional offices. Although the Portland Regional Office is the largest, it is not considered to be our main office. The terms "main" and "branch" office are also used elsewhere throughout the report.

Page 15, Use of OCE approved retainer agreement form -Two alternative revised retainer agreements are provided with these comments. One form includes LASO's pre-printed name with a date line. The other includes a signature and date line for a LASO casehandler. We believe that both the pre-printed signature and the handwritten signature have the same significance under Oregon law; the difference in the two forms does not affect the enforceability of the terms of the retainer agreement, and would in no way affect LASO's interpretation of its obligations to its clients. The pre-printed form does, however, eliminate one of the many paperwork requirements involved in opening each file, reviewing for compliance at the time of opening, reviewing at the time of closing, and reviewing for each annual CSR self-inspection. Although the time involved in signing the retainer may seem miniscule, the total amount of program resources involved in signing and review for several thousand cases each year is not insignificant. We request that OCE accept the version with the pre-printed signature.

Page 27, Attorney-client matches, Line 11-13- The draft states that final disposition forms are typically emailed to the private attorney three or six months after case acceptance and every three months thereafter. This is correct for the Salem office but is incorrect for most LASO offices. The Portland VLP, which handles more than 70% of LASO's PAI cases, emails

(or hand delivers if at a clinic like the Bankruptcy Clinic or Expungement Clinic) the final disposition form at the time the case is referred. Private attorneys receive the final disposition form at the same time they receive all of the other referral information. The private attorneys receive reminders every three months (and are sent a new final disposition form) if the case remains open. Until recently (after the OCE on-sight visit); the Albany office had only "in-house" pro bono attorneys. These attorneys performed case work at the Albany office and contemporaneously entered case information, including case disposition information, into the case management system.

Page 28, Citizenship/alienage screening-- The draft states that when VLP places cases through attorney-client matches, it does not follow-up with either the clients or private attorneys to ensure that citizenship attestation/alienage information is obtained and returned. This is incorrect. When the VLP makes direct referrals, it does follow up with both attorneys and clients to get attestation forms. At the time of the referral, attorneys are given the attestation form and are asked to have the client sign it and to return it to LASO. If it is not returned, the VLP first reminds the attorney to have the client sign the form and return it. This is done at the same time that the VLP sends out the reminders for attorneys to close cases and report how the case was resolved. The VLP also sends letters to clients with the attestation asking them to sign and return it. The VLP has even set up a template letter in the case management system to auto-generate these letters with an attestation to make it easy to generate and send the letters to clients.

Page 28, Forms- The draft states that LASO's final disposition form does not provide an opportunity for the private attorney to describe the legal assistance given to the client. This is incorrect for most of LASO's PAI cases. For example, two LASO offices, Portland and Bend, use the attached final disposition form that provides an opportunity for the private attorney to describe the legal assistance given to the client. On review, though, we determined that one LASO office is using a form that could better describe the level of detail required, and LASO will revise that form.

Page 28, Case Oversight and Follow-Up- The draft states that private attorneys do not return final disposition forms or may return them with limited information. This is an overstatement. Many private attorneys do return the forms; it is a minority of attorneys who do not return them or return them with limited information. The draft also states that LASO does not confirm with the client or attorney whether the case is proceeding after it has been placed and that LASO does not attempt to retrieve the client's citizenship information from the private attorney or client if it is not returned. These statements are incorrect, as explained above. It also states that LASO does not regularly check electronic court dockets when a final disposition form is not obtained. Electronic docket checks are made for some kinds of cases, such as bankruptcy clinic cases in the Bend office and family law cases in the Salem office.

Page 29, Additional Information Requested - LASO provided this information, in the form of an Oregon State Bar Formal Ethics Opinion, to OCE by email on Thursday, March 4, 2015.

Page 40, Line 6- LASO's Board Treasurer is a CPA but is not an attorney.

Page 41, Travel expense disbursements, Line 7- The Executive Director's travel expenses are approved by the Director of Administration or by the Director of Finance, not by a member of the board.

Page 42, Maintenance of financial policies and procedures- By email on Thursday March 4, 2015, LASO provided OCE with excerpts from its revised accounting manual addressing electronic banking issues and documenting its cost allocation process in more detail.

Thank you for your consideration of our comments. I would also like to convey our thanks to Lisa Melton and the review team for their courtesy and professionalism throughout the review process. We especially appreciated the opportunity to address issues during and after the visit so that they could be resolved before the issuance of the report.

If you need any additional information, please don't hesitate to contact me.

Sincerely,

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i)

Janice R. Morgan
Executive Director

LASO RETAINER AGREEMENT

Legal Aid Services of Oregon (LASO) and I, _____ agree:

1. LASO will represent me providing the following **services**: _____

An appeal of my case is not included without discussion and agreement between me and LASO.

2. **No charge for services:** I will not have to pay for the legal work done by LASO staff.
3. **Keeping LASO informed:** I am getting help based on the information I have told LASO. I agree to tell LASO right away about changes in my address, phone number or income, and any other changes that might affect my case. I agree to cooperate in the handling of my case and to stay in contact with LASO.
4. **Right to information:** LASO will keep me informed about my case.
5. **Permission to discuss my case:** I give LASO permission to discuss my case with attorneys in other law firms, including the state support unit, for help with my case. LASO and the attorneys in the other law firms will keep the information confidential.
6. **Not talking about my case:** I will not talk to the other party's lawyer and I will let LASO know right away if that lawyer tries to talk to me about my case. Unless this is a family law case, I won't talk about my case with the other side in my case unless I have first talked to LASO about this.
7. **Settling my case:** LASO may talk to the other side to try to settle my case, but LASO will not settle my case without my okay. But if LASO is unable to contact me, LASO may take reasonable actions to resolve my case, collect money owed to me, and represent my interests.
8. **Costs in my case:** I will pay court costs and other necessary expenses if I can. If I can't, LASO may advance them. I want LASO to ask for costs and prevailing party fees if a statute provides for them and I assign (give) to LASO the right to get and keep them. I will re-pay LASO for out-of-pocket expenses paid by LASO from any money awarded in my case, or if I am able to pay.
9. **Attorney fees:** Some laws or contracts let LASO get attorney fees from the other party, in addition to other remedies. If these fees are available in my case:
 - I want LASO to ask for attorney fees. I assign (give) to LASO the right to get and keep attorney fees.
 - If there are negotiations, LASO will try to negotiate my case before it begins to negotiate its attorney fees.
 - The other side may refuse to negotiate attorney fees separately and offer to settle my case and attorney fees all at once or ask me to waive attorney fees. If I accept this offer or agree to waive attorney fees, LASO will be paid a fee at a rate of \$125 per hour if I accept the settlement offer. This fee payment is in lieu of any statutory or contractual attorney

fees arising from the underlying claim I might otherwise have been entitled to recover. However, if there is no statute or contract that gives attorney fees in my underlying claim, LASO will get no attorney fees.

- Money that I get as part of a settlement or an award by the court may affect how much I owe in taxes. LASO is not agreeing to give me tax advice.
- If I bring a court case and lose any claim, a judge could order me to pay the other side's costs and attorney fees.

10. **Agreeing to waive possible conflict:** LASO may represent additional clients against the opposing party in my case. That person or business may not have enough money to pay all of our claims. As a result, I may get less money if I win the case and it may be more difficult to settle my case than if I had a different lawyer. LASO has advised me to talk to another lawyer to decide if I want LASO to represent me. By signing below, I am asking LASO to represent me even if LASO also represents other clients against the same opposing party.

11. **LASO no longer representing me:** I can tell LASO to stop helping me at any time. LASO can stop representing me for good reasons, including for violations of this agreement or if I am no longer eligible for LASO's services, as allowed by Oregon State Bar rules and other laws.

12. **Filing a grievance:** If I am unhappy with the services provided, I can ask for a review of my case. I can ask any LASO staff for a grievance form.

13. **Keeping my file:** LASO will keep my file for at least five years. After five years, LASO may destroy files as permitted by Oregon State Bar rules.

14. **Information given to LASO's funders:** LASO may be required to make this form, my proof of eligibility for free legal services, my statement of facts (a summary about my case), and information about parties and the type of case filed on my behalf available to the federal Legal Services Corporation or to other organizations auditing LASO under laws and rules related to funds received by LASO. I agree to this limited release of information, but I do not give up my attorney-client privilege to this or other information in my file.

15. **Services LASO cannot provide:** Because LASO gets funds from the federal Legal Services Corporation, LASO cannot help me with the following:

- a class action
- legislative or administrative lobbying
- welfare reform
- starting or continuing litigation for me if I am in jail or prison
- keeping my identity secret from the court or the other party in a case without a judge's permission

I have been told how these rules may affect my case and about other options I have, including my right to refuse LASO's help. *(This section does not apply to cases funded through tribal contracts)*

I consent to representation by LASO to the extent permitted by law.

Legal Aid Services of Oregon

Date:-----

Client:----- Date:-----

fees arising from the underlying claim I might otherwise have been entitled to recover. However, if there is no statute or contract that gives attorney fees in my underlying claim, LASO will get no attorney fees.

- Money that I get as part of a settlement or an award by the court may affect how much I owe in taxes. LASO is not agreeing to give me tax advice.
- If I bring a court case and lose any claim, a judge could order me to pay the other side's costs and attorney fees.

10. **Agreeing to waive possible conflict:** LASO may represent additional clients against the opposing party in my case. That person or business may not have enough money to pay all of our claims. As a result, I may get less money if I win the case and it may be more difficult to settle my case than if I had a different lawyer. LASO has advised me to talk to another lawyer to decide if I want LASO to represent me. By signing below, I am asking LASO to represent me even if LASO also represents other clients against the same opposing party.

11. **LASO no longer representing me:** I can tell LASO to stop helping me at any time. LASO can stop representing me for good reasons, including for violations of this agreement or if I am no longer eligible for LASO's services, as allowed by Oregon State Bar rules and other laws.

12. **Filing a grievance:** If I am unhappy with the services provided, I can ask for a review of my case. I can ask any LASO staff for a grievance form.

13. **Keeping my file:** LASO will keep my file for at least five years. After five years, LASO may destroy files as permitted by Oregon State Bar rules.

14. **Information given to LASO's funders:** LASO may be required to make this form, my proof of eligibility for free legal services, my statement of facts (a summary about my case), and information about parties and the type of case filed on my behalf available to the federal Legal Services Corporation or to other organizations auditing LASO under laws and rules related to funds received by LASO. I agree to this limited release of information, but I do not give up my attorney-client privilege to this or other information in my file.

15. **Services LASO cannot provide:** Because LASO gets funds from the federal Legal Services Corporation, LASO cannot help me with the following:

- a class action
- legislative or administrative lobbying
- welfare reform
- starting or continuing litigation for me if I am in jail or prison
- keeping my identity secret from the court or the other party in a case without a judge's permission

I have been told how these rules may affect my case and about other options I have, including **my right to refuse LASO's help.** *(This section does not apply to cases funded through tribal contracts.)*

I consent to representation by LASO to the extent permitted by law.

Client: _____ **Date:** _____

LASO: _____ **Date:** _____

Volunteer Lawyers Project
 Legal Aid Services of Oregon, Portland Regional Office

Case Closure Form

Client Name:		Date Opened: (or Clinic Date)	
Attorney Name:		LASO Case#:	
Case <u>Closing</u> Information <i>To be completed by all volunteer attorneys at the completion of client's legal matter.</i>			
1. Please identify the client's legal issue:			
2. What assistance did you provide to the client? (i.e., drafted a will, represented client in a contested restraining order hearing, advised client regarding custody of her daughter, drafted letter to creditor, negotiated a settlement with landlord and prevented litigation). <i>Please tell us how the case was resolved.</i>			
3. How many hours did you spend on the matter?			
4. Date you completed work on the matter:			

Please mail/fax/email (probono@lasoregon.org) this form to the Volunteer Lawyers Project as soon as you complete work on the case.

Thank you for your support of our pro bono program!

Volunteer Lawyers Project, Legal Aid Services of Oregon
 520 SW Sixth Avenue, Suite 700, Portland, OR 97204
 (503) 224-4086 (phone) (503) 295-9496 (fax)

MARCH 5, 2015
FORMAL ETHICS OPINION

Lisa Melton

From: Aleta Doerr <aleta.doerr@lasoregon.org>
Sent: Thursday, March 05, 2015 6:38 PM
To: Lisa Melton
Cc: Janice Morgan
Subject: Oregon Ethics Opinion - Senior Law Project
Attachments: Formal Opinion 2005-138.pdf

Lisa –

You have asked for Oregon authority regarding the setting up of our senior law project (SLP). As we discussed, we evaluated the situation of including SLP client information on our case management system in conjunction with our purchase and implementation of the system in 2007. We had custom programming done on our Legal Server system to create a “restricted office” feature that would enable us to block information from users of the system. Only a small number of employees are given access to SLP data, mostly for data entry purposes.

Attached is an Oregon Formal Ethics opinion that addresses this issue. Although the screening for SLP is done a bit differently than described in the opinion, we believe the opinion supports our contention that it is ethically permissible for legal aid to obtain screening information from prospective clients without prior conflicts checks. If Maya or any other lawyer in the firm provides direct representation, a conflicts check is performed and cases are not accepted if representation would present a conflicts of interest as to either party in the case.

Please let me know if you have any questions.

Thank you –
Aleta

Aleta Doerr
Director of Administration
Legal Aid Services of Oregon
520 SW Sixth Avenue, Suite 1130
Portland, OR 97204
Phone: (503) 224-4094
Fax: (503) 417-0147
aleta.doerr@lasoregon.org
www.oregonlawhelp.org

FORMAL OPINION NO. 2005-138

**Prospective Clients:
Legal Aid Service Referrals to Private Lawyers**

Facts:

Legal Aid Service provides free legal services to persons who qualify under federal poverty guidelines and Legal Services Corporation regulations. Legal Aid Service also administers Referral Service, which consists of a referral coordinator employed by Legal Aid Service and a panel of private lawyers who work pro bono to represent persons who qualify financially for services but cannot receive them from Legal Aid Service because (1) the persons do not meet Legal Aid Service's priorities or (2) the persons are adverse to a party to the same dispute who has been found to be qualified and who is receiving services from Legal Aid Service.

Legal assistants employed by Legal Aid Service screen the prospective clients for financial and other eligibility.¹ When a referral is made, Referral Service shares a general description of the legal matter and some identifying information with the pro bono lawyer. Referral Service receives brief periodic and final status reports from the pro bono lawyer. When the matter is concluded, Referral Service sends a letter to the referred client, which may result in the referred client commenting on whether the representation has been satisfactorily concluded.

A pro bono lawyer may choose to meet with clients in a room made available by Referral Service, but does not have access to Legal Aid Service's files.

Questions:

1. Is there a conflict of interest if Legal Aid Service, through its Referral Service, refers a potential client to a pro bono lawyer who is on the panel?

2. May Legal Aid Service make such a referral if the adverse party to the dispute has already been referred to a pro bono lawyer who is a member of the panel?

¹ This opinion is limited to its specific facts. Legal aid and similar programs may differ in ways that are material to the conclusions reached in this opinion. Careful attention should be paid to the framework of a particular program in applying this opinion.

Conclusions:

1. See discussion.
2. Yes.

Discussion:

Oregon RPC 1.18 provides:

(a) A person who discusses with a lawyer the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.

(b) Even when no client-lawyer relationship ensues, a lawyer who has had discussions with a prospective client shall not use or reveal information learned in the consultation, except as Rule 1.9 would permit with respect to information of a former client.

(c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraph (d). If a lawyer is disqualified from representation under this paragraph, no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).

(d) Representation is permissible if both the affected client and the prospective client have given informed consent, confirmed in writing, or:

- (1) the disqualified lawyer is timely screened from any participation in the matter; and
- (2) written notice is promptly given to the prospective client.

The communications between prospective clients and the Legal Aid Service screener are subject to protection under Oregon RPC 1.18(b) as well as under Oregon RPC 1.6(a).²

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

² The exceptions in Oregon RPC 1.6 do not apply here. See also OEC 503(1)(a), which defines *client* for purposes of the lawyer-client privilege to include "a person . . . who consults a lawyer with a view to obtaining professional legal services from the lawyer."

Pursuant to Oregon RPC 1.18(d), the entire Legal Aid Service “firm” would not be disqualified by the fact that one of the lawyers took information from a prospective client in a screening call, as long as appropriate measures are taken to prevent access to the information by other lawyers in the firm. By the same analysis, Legal Aid lawyers are not disqualified because a legal assistant gathers information from prospective clients if the information is not available to the lawyer in the firm. It follows that a pro bono lawyer on the referral panel also would not be disqualified if the information gained in the screening call is not available to the pro bono lawyer.

Florida Ethics Opinion No 92-1 suggests that persons being screened by a similar Legal Aid Service should sign a consent “acknowledging that certain limited information given in the intake interview will not be treated as confidential for purposes of enabling the Society to screen for conflicts or to make referrals.” Such consents may be helpful, although not required, in light of Oregon RPC 1.18.

Approved by Board of Governors, August 2005.

COMMENT: For additional information on this general topic and other related subjects, see THE ETHICAL OREGON LAWYER §§5.2–5.3 (Oregon CLE 2003); RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS §§14–15, 60, 62 (2003); and ABA Model Rule 1.18.

MARCH 5, 2015
ELECTRONIC BANKING
COST ALLOCATION

Lisa Melton

From: Aleta Doerr <aleta.doerr@lasoregon.org>
Sent: Thursday, March 05, 2015 4:02 PM
To: Lisa Melton
Cc: Janice Morgan
Subject: Accounting Manual Revisions
Attachments: Revisions to LASO's Accounting Manual 3-5-2015.pdf

Lisa -

We have revised our accounting manual to more specifically address electronic banking issues. We have also revised our cost allocation description to address non-allowable costs in the allocation section of the manual and to provide a more detailed description of our allocation methodology, also part of our accounting manual. We believe these changes address two of the four financial issues you raised with us during our February 23rd phone conversation. (As to the remaining two financial issues, we have provided information about the notice to funder issue and you will get back to us about the stale check issue.)

The way we presented these accounting manual changes to the board's executive committee was to provide only the relevant sections of the manual with the revisions incorporated. (This is the method of presenting this material that the committee finds the most helpful.) Attached are these revised sections.

Please let me know if you have questions or need more information.

Thank you –
Aleta

Aleta Doerr
Director of Administration
Legal Aid Services of Oregon
520 SW Sixth Avenue, Suite 1130
Portland, OR 97204
Phone: (503) 224-4094
Fax: (503) 417-0147
aleta.doerr@lasoregon.org
www.oregonlawhelp.org

REVISIONS TO LASO'S ACCOUNTING MANUAL

3/5/2015

General Checking Account, Litigation Account, and Investments

LASO's accounting and banking activities are centralized, controlled, managed and reviewed from the Central Administrative Office, except for the lawyer trust checking accounts and petty cash funds that are maintained through regional offices.

LASO maintains three bank accounts that are utilized to centrally process program transactions: a General Checking Account, a Litigation Checking Account, and an Investment Account. The General Checking Account and the Litigation Checking Account are FDIC insured up to 100% of the balances in the accounts. The Investment account is made up of Certificates of Deposit. Program cash and cash reserve funds are invested within the guidelines of the Legal Services Corporation Accounting Guide for LSC Recipients 2010, which states:

Funds held for immediate operating expenses must be maintained in federally-insured bank accounts. Funds in excess of Federal Deposit Insurance limits and not needed for immediate operating expenses are to be invested in U.S. Treasury notes or investment instruments, for example, money market accounts backed by U.S. government securities.

General Checking Account and Disbursement Methods

LASO maintains a General Checking Account for the majority of its statewide receipts and disbursements transactional activities. Grant awards, contract receipts, private donations and other receipts of funds are manually or electronically deposited (i.e. grantor EFT transfers) into the General Checking Account. LASO's disbursement transactions are processed either directly from the General Checking Account or as a reimbursement through it.

Disbursements from the general checking account are made by check in all but a few limited situations, which have been approved by the Board of Directors. Bank processing fees are paid through automatic withdrawals by the bank. Electronic transfers, initiated by LASO, are used to pay payroll expenses to the ADP payroll service provider, and payments for 401(K) accounts to the American Bar Association Retirement Funds Program. The default settings on the account disallow electronic transfers; dual controls are in place to prevent a single employee from expanding the use of electronic disbursements beyond those authorized by the Board. Credit cards are used on limited basis for some types of disbursements, as described in the "Corporate Credit Card" section of this manual.

Litigation Account

LASO maintains a centralized limited checking account for immediate litigation expenses of each regional office. This account is used for paying litigation expenses of client cases when the client is unable to meet the expense. Each regional office is provided with checks to the account and the Regional Director is responsible for the office's use of the account, subject to the review by the accounting department.

The Trust & Litigation Disbursement Request form is used to request checks from the litigation account and requires an authorized signature before checks are issued. Offices send reports to the accounting department that include a list of the checks issued, copies of the disbursement request forms, and voided checks. The Accountant reviews the information sent by offices, reconciles the account, and replenishes the account, as needed. The Accountant also posts litigation account transactions into the general ledger monthly as a standard journal entry.

See LASO Regional Office Litigation Account Procedures.

Investment Account

LASO invests excess funds in Certificates of Deposits in an interest bearing account backed by U.S. Treasury securities in accordance with the Legal Services Corporation Accounting Guide 2010. Responsibility for daily monitoring of the organization's current cash position and the investment of cash reserves is with the Director of Finance. Telephone transfers are allowed to be made by the Director of Finance only between the General Checking Account and the Investment Account. Direct payments or transfers from the Investment Account to any other account require the advance approval of the Executive Director or the Board of Directors.

See Legal Aid Services of Oregon Investment Policy.

Bank Reconciliations

Monthly bank reconciliations of the three major accounts (General Checking Account, Litigation Account and Investment Account) are prepared by the Accountant. The Administrative Assistant opens and date stamps the bank statements and forwards them to the Director of Finance, who reviews and delivers them to the Accountant for reconciliation. Bank reconciliations are reviewed and approved by the Director of Finance as part of the month-end closing process.

Check Signers

The Executive Committee and the Board of Directors review and adopt financial resolutions related to bank accounts, check signing authorizations, and authorized signers on an annual basis. The Board also reviews all accounts opened and closed during each fiscal year.

See Financial Resolutions of the Board of Directors of Legal Aid Services of Oregon.

Corporate Credit and Office Supply Cards

Credit Cards & Office Supply Cards. The organization maintains a limited number of corporate credit cards in the Central Administrative Office for program travel, online purchases of supplies and equipment and for other program expenditures that require a credit card. The Board of Directors approved obtaining corporate credit cards when the accounts were established. In the Central Office, the Executive Director, Director of Finance, Director of Administration, and the Assistant Director of Administration have cards. The program also

maintains LASO credit cards with Office Depot and Staples for the purchase of office supplies in 6 offices. Only employees authorized by the Executive Director or Regional Director may use LASO Office Depot and Staples credit cards. LASO credit cards may only be used for expenses associated with LASO business and cannot be used for any personal expenses. Employees are not authorized to use credit cards for cash advances or ATM (Automated Teller Machine) withdrawals. Employees who use any of LASO's credit cards sign the appropriate credit card policy, agreeing to its terms. The Central Accounting Department maintains a list of authorized users. When an authorized employee leaves the program, the credit card is returned to the accounting department and the individual is no longer able to use the card.

Corporate Cards for eFiling. LASO also maintains a separate credit card that is used to pay fees when cases are electronically filed in state court. When fees are owed, the use of a credit card account is the only permissible form of payment. LASO has set up a credit card account in Oregon's Odyssey File and Serve system. Users of the system may indicate that the account is to be used for payment of fees, but no user (even those who are firm administrators) has any access to account information or to the card itself. Because use of the card is entirely limited to eFiling in state courts and users have no access to account information or to the card, eFilers are not required to sign a LASO credit card agreement. For eFiling in federal court, it is not possible to set up a credit card account where the user does not have access to account information. For eFiling in federal court, the program has obtained a bank "gift card" in a limited amount. Credit information is provided to the employee to enable them to pay the fees. New cards are purchased when the amount on the card has been exhausted.

Payment and Documentation of Credit Card Expenses. When expenditures or purchases are made using the corporate credit card in the Central Office, the manager submits transaction documentation to the Accounts Payable Bookkeeper who retains the documentation until the monthly credit card statement arrives. The monthly credit card statements for the office supply cards are sent to the applicable office. Offices send the monthly statement and accompanying transaction documentation to the Central Office for payment. For electronic filing fees, offices send transaction documentation to the Central Office for payment. The Accounts Payable Bookkeeper matches the documentation to the activity on the statement, investigates questions, tracks down missing back-up and conducts necessary research in order to properly code the transactions. Once the Accounts Payable Specialist completes the coding, then the credit card payment is subject to the normal LASO payment process, described in the "Purchasing and Disbursements Overview" section of this manual.

The corporate credit card account, the office supply accounts, the eFiling credit card and gift cards and the authorized signers are to be reviewed by the Executive Committee and Board of Directors as part of its bank check signer review.

See Financial Resolutions of the Board of Directors of Legal Aid Services of Oregon, the LASO Credit Card Policy, and the LASO Policy for Office Depot & Staples Credit Cards.

Cost Allocation Method

Cost Allocation Process

LASO uses a monthly allocation procedure based on the direct service hours of employees. When considering if a cost can be charged to an LSC grant or contract LASO follows the uniform standards provided by LSC regulation 45 CFR § 1630. Additionally LASO follows the provisions of OMB Circular A-122 and other LSC regulations. Unallowable costs, including alcohol, late fees, finance charges, some types of bar dues and membership fees, and any other expenditure that is not reasonable and necessary for the performance of the grant or contract, are not charged to LSC funds.

All employees record their time in the Legal Server case management system. This timekeeping information is the basis for allocating the employee payroll journal expenses to all funding sources based on work hours. If an employee does not have any work hours for the month a review of the previous 3 to 6 months provides a fair work hour estimate. At this point all personnel expenses have been allocated to a particular funding code, Management and Admin, or Fund Raising by office. Staff Attorneys and Paralegals are excluded from charging hours to Management and Admin to avoid PAI allocations that do not comply with LSC requirements.

The next step is to allocate operating expenses. All operating expenses coded to a funding code, including Non-LSC and PAI, are hard coded to that source. All other expenses are recorded in a cost pool. All of these allocations are at the office level.

Allocating office level expenses is done by the work hours gathered from Legal Server. Our MIP accounting package has an allocation module that uses the work hours from the employee payroll journal expense entry to allocate the operating expenses in the cost pool to the appropriate funding code. Employee work hours are likewise used to allocate the Management and Admin payroll expenses to the appropriate funding code.

The last step is to allocate the costs for Central Administration. The office level expenses associated with the Central office, in excess of any revenue associated with the Central office, are allocated to the other offices based on budgeted FTE. Once the Central Administrative cost are allocated to the offices those expenses are then distributed to the appropriate funding code based on the allocation module described above.

These calculations are done by the Accountant on a monthly basis, using the monthly time information submitted by employees, and are posted to the general ledger.

At the end of the fiscal year the expenses coded as LSC eligible greatly exceed the LSC revenue received by LASO. The accountant prepares the reports submitted to LSC at year end to present a fair representation of expenses by line item in proportion to the overall performance of the organization. At this time the Accountant also prepares the report for private attorney involvement (PAI) as set forth in LSC regulation 45 CFR § 1614. Once again LASO exceeds the 12.5% LSC PAI requirement. The Accountant reports the expenses in order to present a fair representation of expenses by line item. It is LASO's contention that these representations are

good faith efforts to present fair reports of LSC expenditures. The fact that such a large excess of LSC eligible expenses is covered by other unrestricted funding sources, such as state filing fees and IOLTA funds, means that any inadvertent questioned costs could easily be replaced with valid LSC eligible expenses on the year end reports.

Allocations for Derivative Income

Derivative income resulting from an activity supported with LSC funds is allocated to LASO's LSC grant fund in the same proportion that the amount of LSC funds expended bears to the total amount expended by LASO to support the activity. Derivative income that is allocated to the LSC fund is subject to the same requirements that apply to all LSC funds.

Attorneys fees that are received by the program and send to the accounting department for deposit in the LASO checking account, along with the LASO Attorney Fee Information Form. This form provides information about the fees, including the funding sources. The attorneys fees earned from an LSC-funded case are directly coded to the LSC fund as income. Allocations of interest and increases or decreases in investment values are made to the LSC fund based on the percent of LSC funds that are in the account.

Allocations for derivative income are done by the Accountant on a monthly basis and are posted to the general ledger.

APRIL 20, 2015
MINUTES
LASO BOARD OF DIRECTORS

Lisa Melton

From: Aleta Doerr <aleta.doerr@lasoregon.org>
Sent: Monday, April 20, 2015 3:15 PM
To: Lisa Melton
Cc: Janice Morgan
Subject: Approval of Accounting Manual
Attachments: Ex Comm Minutes 03-04-15.pdf

Lisa –

Attached are the minutes from the March 4, 2015 executive committee meeting, where the accounting manual changes were approved. The executive committee met last week to approve our annual audit and the committee approved the March 4th minutes.

Thanks-
Aleta

Legal Aid Services of Oregon Board of Directors - Executive Committee Meeting
March 4, 2015

Attending: Michael Mason and Beverly Pearman attended in person. Paula Palmer attended by phone. Non-members attending: Janice Morgan, Phil Martin, Aleta Doerr, David Thornburgh, Shawn Trzpuc, and Lori Alton.

Minutes: The committee unanimously approved the minutes from the December 3, 2014 meeting.

Financial Report: Phil reviewed the financial statements as of 12/31/14. Phil also presented a proposed revised budget for 2015. The committee will recommend that board approve the revised budget at the meeting on March 7, 2015.

Financial Resolution: The committee also reviewed the list of LASO bank accounts, credit cards, and petty cash funds for 2015 and the LASO Financial Resolutions. The committee will recommend that the board adopt the LASO financial resolutions at the March 7th board meeting.

Investment Policy: The committee reviewed the LASO investment policy. The committee will recommend that the board adopt the policy, unchanged from the earlier version, at the March 7th board meeting.

Accounting Manual: Janice presented revisions to the LASO Accounting Manual in response to issues raised by LSC during the OCE review. The revisions include a more detailed description of the program's use of electronic banking and additional information about cost allocations. The manual has also been revised to reflect that the Native American Program no longer has credit cards and there is a new program-wide credit card used for state court electronic filing of cases. The committee unanimously voted to approve these changes.

Jackson County Resolution: The committee unanimously voted to renew the following resolution: In furtherance of the goals of the Oregon State Planning Process, the Board agrees to an annual transfer of \$40,000 of non-LSC funds to the Center for Non-Profit Legal Services for the provision of services to low-income clients in Jackson County until otherwise directed by the Board.

APRIL 23, 2015

LASO

CASH DISBURSEMENT PROCEDURES

Lisa Melton

From: K Domo <domokent@gmail.com> on behalf of Kent Domogalla <Kent@DomogallaConsulting.com>
Sent: Thursday, April 23, 2015 6:22 PM
To: Lisa Melton
Subject: Fwd: LASO Cost Allocations & Disbursements
Attachments: Cash Disbursements Procedures 4-23-15.pdf

Lisa

Here is Aleta's response, along with a copy of the changes in their cash disbursement procedures requiring segregation of LSC/Non-LSC expenses.

Kent

----- Forwarded Message -----

Subject: LASO Cost Allocations & Disbursements

Date: Thu, 23 Apr 2015 14:46:06 -0700

From: Aleta Doerr <aleta.doerr@lasoregon.org>

To: kent@domogallaconsulting.com <kent@domogallaconsulting.com>

CC: Janice Morgan <janice.morgan@lasoregon.org>, Phil Martin <phil.martin@lasoregon.org>

Hello Kent –

As we discussed on Monday, our program's chart of accounts does not have separate numbers for LSC-eligible expenditures and non LSC-eligible expenditures. Instead, we use a secondary code to indicate whether a cost is LSC-eligible. You explained LSC's concern about having measures in place to ensure that ineligible costs are not paid with LSC funds.

After discussions here, we believe that the most recent revision in our Accounting Manual, which the executive committee of our board approved on March 4, 2015, serves this function with respect to memorializing policy and practices for our accounting department. Below is the revised relevant paragraph of the Cost Allocation Method section of the LASO Accounting Manual:

LASO uses a monthly allocation procedure based on the direct service hours of employees. When considering if a cost can be charged to an LSC grant or contract LASO follows the uniform standards provided by LSC regulation 45 CFR § 1630. Additionally LASO follows the provisions of OMB Circular A-122 and other LSC regulations. Unallowable costs, including alcohol, late fees, finance charges, some types of bar dues and membership fees, and any other expenditure that is not reasonable and necessary for the performance of the grant or contract, are not charged to LSC funds.

The measure that we think would be most helpful in ensuring that ineligible costs are not charged to LSC funds is more on the "front end" – the preparation of request for payment forms by our staff. Attached is a proposed revision of LASO's Office Cash Disbursements Procedures. As you can see, the procedures clearly notify staff that no program funds can be used for the purchase of alcohol. The "Request for Payment" section of the procedures, directs staff to clearly identify non-LSC expenses and specifically requires that membership fees and dues be identified on the RFP. Employees are also asked to indicate on the RFP whenever late fees or finance charges are included in the invoice. These steps will assist the accounting department in identifying costs that are unallowable for payment with

LSC funds. (Some membership dues, in particular, are not always clearly evident from invoices alone.) We are planning training on accounting procedures later in the year – we intend to emphasize these sections of the procedures.

We can certainly add additional language to the Accounting Manual. But, as stated, we think the changes made to the Case Disbursements Procedures, along with staff training, will be the most effective means of avoiding improper payment of disallowable costs.

Please let me know if the revisions already made to the Accounting Manual, along with the proposed revised Cash Disbursements procedures, address your concerns or if you would like to see additional language in our Accounting Manual.

Thank you –
Aleta

Aleta Doerr
Director of Administration
Legal Aid Services of Oregon
520 SW Sixth Avenue, Suite 1130
Portland, OR 97204
Phone: (503) 224-4094
Fax: (503) 417-0147
aleta.doerr@lasoregon.org
www.oregonlawhelp.org

From: K Domo [<mailto:domokent@gmail.com>] **On Behalf Of** Kent Domogalla
Sent: Wednesday, April 22, 2015 3:54 PM
To: Aleta Doerr
Subject: LSC

Aleta
Sent just to be sure that you have my eMail.....

Kent v Domogalla

This e-mail may contain confidential information and is intended solely for the use of the individuals named in this transmission.

If you are not the intended recipient, you are hereby notified that disclosing, copying, distributing or taking any action in reliance on this information is strictly prohibited.

LEGAL AID SERVICES OF OREGON
OFFICE CASH DISBURSEMENTS PROCEDURES

Authorization of Purchases

All purchases must be approved in advance of obligating LASO. Regional Directors and supervising attorneys are authorized to approve purchases related to the operation of their offices up to \$1000 and travel/training reimbursement for employees in their offices. Purchases of computer equipment (desktop computers, laptops, servers, printers, etc.) and software must be approved by the Director of Administration. Neither LSC nor non-LSC funds may be used for the purchase of alcoholic beverages.

Segregation of Purchasing Duties

As part of office purchasing procedures, the regional director or relevant manager shall make staff assignments to segregate purchasing and receiving functions so that employees responsible for making purchases do not also have responsibilities for receiving or accounting for the items purchased.

Recurring Expenses

Some disbursements are of a recurring nature such as office or equipment rental. Provide the accounting department with a copy of the executed leases. Rental payments will be made on due dates automatically, without the need for offices to submit Request for Payment forms.

Request for Payment Forms

Non-recurring bills and invoices are paid by the Central Accounting Department upon receipt of a completed Request for Payment form that shows authorization for payment, with bills and invoices attached. When purchases are received in your office, check the invoice to see that there are no discrepancies in the price, quantity, or quality of the materials received. Request for payment forms should include the funding source for each expenditure, if known.

Identification of Non-LSC Expenses. Clearly identify all non-LSC expenses on the Request for Payment form. Membership fees or dues to private or nonprofit organizations, other than mandatory Oregon State Bar dues, may not be paid with LSC and must be identified on the RFP. If any bill includes late fees or finance charges, you should note this on the RFP. (These costs cannot be paid with LSC funds.)

Submitting Request for Payment Forms

Regional Offices should expeditiously process and mail Request for Payment forms so that late fees and finance charges can be avoided. Send bills to be paid to Central at least once a week. Checks are usually prepared and mailed by the accounting department once a week.