



LEGAL SERVICES CORPORATION

Office of Program Performance

Final Report

for

Program Quality Visit

to

Michigan Indian Legal Services, Inc.

Recipient No. 723146

July 28 – 31, 20-14

OPP Visit Team:

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**Michigan Indian Legal Services, Inc.
Program Quality Visit Report**

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INTRODUCTION

The Legal Services Corporation (LSC) Office of Program Performance (OPP) conducted a Program Quality Visit to Michigan Indian Legal Services, Inc. (MILS) in Traverse City, Michigan, from July 28 through July 31, 2014. OPP's team consisted of Althea Hayward, OPP's Deputy Director who was team leader, and Carolyn Worrell, LSC temporary employee,

OPP seeks to ensure that all recipients of LSC funds are providing high quality, efficient, and effective legal services to eligible clients. The overall purpose of program quality visits is to assess the quality of legal services provided to eligible clients. In conducting this evaluation, OPP relies on the LSC Act and regulations, the LSC Performance Criteria, LSC Program Letters, and the ABA Standards for the Provision of Civil Legal Aid. The evaluation is organized to follow the four Performance Areas of the LSC Performance Criteria, which cover needs assessment and priority setting; engagement with the low-income community; legal work management systems and the quality of legal work; and program management, including board governance, leadership, strategic planning, resource development, and coordination within the delivery system. In conducting its assessment, the team carefully reviewed the documents LSC received from the program, including its most recent grant proposal narratives, its case service reports (CSRs) and other service reports (OSRs), a survey of MILS staff conducted over the Internet, and numerous other documents the program submitted in advance of the visit, including advocates' writing samples.

On site, the team visited the program's only office in Traverse City, Michigan. The team interviewed the MILS staff, including the executive director, the deputy director, staff attorneys, administrative staff, and other support staff. Additionally, team members interviewed board members, community representatives, several judges, leaders in the state justice community, and leaders from the Michigan Indian service provider community. Due to scheduling and time constraints, some of these interviews were conducted by telephone.

OVERVIEW OF PROGRAM AND SERVICE AREA

Michigan Indian Legal Services, (MILS) has been in operation for more than 33 years and is known throughout the state of Michigan for its advocacy on behalf of Native Americans. The program provides services to Native Americans throughout the state of Michigan from its offices in Traverse City, with an experienced staff of seven persons. The program is led by a strong director with more than 36 years of legal services experience, and 25 years as MILS' director.

In Michigan, Indian tribes, organizations and individuals continue their efforts to maintain their culture and traditions. MILS has supported that effort by assisting tribes in obtaining federal recognition of their unique sovereignty. While federal recognition has helped tribes realize their goal of self-government, it has also increased the need for resources to accomplish self-government. The new tribal justice systems often do not have the resources to appoint attorneys in all criminal and child welfare matters. MILS recently changed its case priorities to provide

assistance in both these areas. Despite federal recognition and the economic growth that has followed, there is still substantial poverty on Indian reservations in Michigan.

In the past, MILS has primarily focused on representing Native American tribes in obtaining tribal recognition from the United States Government, and in cases related to securing rights under the Indian Child Welfare Act (ICWA). Because most tribes in Michigan have now secured tribal recognition, the program has been engaged in re-engineering its approach to service delivery in the Native American community. They continue to be very actively involved in ICWA cases and have started a criminal representation pilot project with non-LSC funds. There are Indian tribes in every part of the state except southeast Michigan; one in central Michigan, three in southwest Michigan, three in northwest Michigan and five in the Upper Peninsula with two in the east, one central and two in the west.

MILS is a member of the Legal Services Association of Michigan (LSAM), an integrated statewide delivery system for Michigan. The program provides a full range of legal services to American Indian clients in Indian law issues. Numerous other providers both LSC funded and non-LSC funded provide a full range of legal services to American Indian clients in other legal areas.

The program's total revenue for 2013 was approximately \$533,954, of which \$159,063 or 30% was from LSC. Non-LSC revenue totaled \$374,891, representing 70% of MILS' total revenue.¹ Since 2010, the program's LSC revenue has decreased by more than \$30,000.

REPORT SUMMARY

Historically, MILS has established its standing in the state of Michigan as a highly skilled law firm that has worked diligently to provide legal representation to Indians and tribes throughout Michigan. The program was cited around the state for its work in the development of tribal courts and tribal law in Michigan

The program's leadership and staff are held in high regard and are trusted by the Indian community they serve. MILS has been successful in building a strong bond with its client community. This can be attributed to the program's dedication and deep commitment to serving the client constituency; development of a deep understanding and appreciation of Indian culture, and high quality legal work performed over many years.

The program is governed by a committed and engaged board of trustees who are conversant on the accomplishments and challenges of the program. The MILS board is supportive of and encourages an atmosphere that is conducive to the retention of client eligible trustees.

The program's leadership and staff are regarded as experts in Michigan tribal law and Native American legal services delivery. MILS has performed outstanding work with historical

¹ MILS Actual Support & Revenue Report Calendar Year 2013 submitted to LSC.

significance by successfully representing five tribes in Michigan in their bid for federal tribal recognition. The program is currently awaiting a decision on the sixth tribe.

The program has demonstrated its commitment to planning for leadership succession by hiring and training the program's first deputy director. All staff demonstrated a commitment to the program's mission. They work cohesively as a team and recognize new and creative ways to deliver services. MILS is also fortunate to have committed, strong, creative administrative staff.

There are other areas where MILS has excelled that are not enumerated here. As the program grapples with its challenges, and positions itself to move forward in expanding its service delivery, it should continue to ensure that quality legal services are delivered to Native American clients throughout the state. To that end, some MILS systems and protocols will require review and further development. The LSC team concluded that MILS would benefit greatly from:

- An aggressive approach to fundraising and resource development led by the program's board of trustees;
- As funding permits, further expansion of the program's presence in other parts of Michigan is warranted, especially in light of the emerging needs of Native American clients and the necessity for MILS' services;
- Completion of the program's strategic planning initiative and careful implementation of the plan developed;
- Training and equipping new client board members with the tools necessary for their effective role as members of the governing board

FINDINGS AND RECOMMENDATIONS

PERFORMANCE AREA ONE. Effectiveness in identifying the most pressing civil legal needs of low-income people in the service area and targeting resources to address those needs.

Criterion 1. Periodic comprehensive assessment and ongoing consideration of legal needs.

***Finding 1:** MILS conducted a comprehensive needs assessment in 2012-2014 that formed the basis of program priorities that the MILS' board adopted in the spring of 2014.*

For the first 20 years of the MILS' existence, the primary focus of its work was to obtain federal recognition for Michigan Indian tribes requesting the program's assistance in obtaining such recognition. Federal recognition, and the benefits that come with it, is often the foundation for a tribe's ability to successfully pursue economic development and self-government. With the

exception of one tribe's federal recognition that is still pending with the Bureau of Indian Affairs, MILS has completed this important work. Its previous comprehensive legal needs assessment, as well as the recent one conducted in 2012-2014, have been of particular importance since these assessments have provided a new focus and direction for the program's work.

The needs assessment effort was led by the program's director and staff with oversight by the board. The primary approaches were survey forms and meetings on the Michigan Indian reservations along with meetings with Indian organizations and agencies that serve the Michigan Indian population. Participants included tribal leaders, staff, community representatives, and client eligible tribal members. In addition staff and board members conducted individual interviews with tribal legal staff.

Interviewers used the survey form as their protocol to guide the discussions in order to obtain comparable data from each meeting and interview. The survey form was handed out at the meetings. It asked respondents to rank a series of Indian law issues as to their importance to the Michigan Indian community. It also provided a section in which respondents could add legal issues not listed on the form. Meeting participants were asked to take additional copies of the survey and to distribute them to other members of their communities. The survey was also printed in one Native American newspaper and newsletters across the state.

MILS staff compiled notes from all the meetings and tallied the surveys. An intern analyzed the results. Staff presented this analysis along with staff recommendations to the board. The board, composed primarily of Native Americans from throughout Michigan, brought its own experience and knowledge of the Michigan Indian communities to the discussions as well.

The assessment found that the most critical legal needs continue to be in the areas of: enforcement of the federal Indian Child Welfare Act² (ICWA) and the Michigan Indian Family Preservation Act (MIFPA) which adopts, clarifies, and expands on ICWA as it applies in Michigan; protection from discrimination, particularly in education; protection of rights secured by treaties and statutes; the need for fair, impartial, and competent tribal courts; the necessity for a reliable income; access to adequate health care; the need to maintain a family home; and the protection of elders' estates. The assessment also found an increased need for assistance in expungement of tribal juvenile and criminal records and restoration of driver licenses both of which impact employability.

Accordingly, the board set priorities in a wide range of substantive areas and delivery approaches. As part of its priority setting process, MILS carefully considered the availability of legal services from other providers such as the basic field programs. For example, the program decided to no longer provide advice and brief service for family cases in state court not involving ICWA or MIFPA but to refer those service requests to other providers who could provide more in depth assistance.

² The purposes of the Indian Child Welfare Act, as well as the Michigan Indian Family Preservation Act, are to prevent the removal of Indian children from their tribes by governmental entities and placing them with non-Indian families and to help ensure the survival of Indian tribes and their culture.

There were requests from additional tribes for MILS to provide criminal defense representation in tribal courts as permitted by the Legal Services Corporation Act and Regulations. The staff and board decided that MILS could not provide representation beyond its current pilot project in three tribal courts with its existing resources. However, they are working with additional tribes to find funding, including from the tribes themselves, to provide that representation.

The board continued its policy of limiting those cases of Indian versus Indian in which the program will provide representation to one side. Since its founding, the program had not provided representation in such cases. As tribes developed their own governments, tribal courts, and agencies such as housing authorities and welfare departments, issues such as the evictions of tribal members from tribal housing and the removal of children became more important. This policy change allows for representation in those types of cases. It continues to prohibit, for example, representation of one Indian parent against the other in custody disputes.

Specifically, MILS' current priorities are:

- Assistance in the prevention of the breakup of Native American families using the Indian Child Welfare Act (ICWA) and the Michigan Indian Family Preservation Act;
- Ensuring that rights guaranteed to Native Americans by treaty or statute are secured;
- Assistance to tribes and organizations in economic development, tribal acknowledgement, tribal land issues, development of tribal governmental issues, tribal court development and tribal code development;
- Provision of civil representation in tribal court. The MILS board has authorized a pilot project to explore criminal representation in tribal court;
- Assistance of Native Americans subject to discrimination;
- Provision of community education regarding the unique status of Native Americans;
- Provision of services to Indian elders including simple wills, and other estate planning. MILS will provide full representation to Indian elders seeking to preserve state or federal benefits;
- Provision of legal assistance to parents in cases where a local governmental elementary or secondary school system's policies or lack of policy, lack of enforcement of policies or local, state or federal law has a disparate negative impact on American Indian students; and,
- Assistance of individuals faced with a loss of essential services when other legal assistance is unavailable.

MILS' board annually reviews program priorities based on program service information provided to them by the executive director in consultation with other staff. Because of both the staff and board's close connection to the Indian communities, they are able to quickly identify emerging needs such as the federal expansion of tribal court jurisdiction in criminal cases and the attendant need for defense counsel.

Criterion 2 and 3. Setting goals and objectives, developing strategies and allocating resources and Implementation.

Finding 2: The board is currently engaged in the early stages of strategic planning led by a board member.

Currently, MILS does not have a written strategic plan. The board has taken the first steps toward developing a strategic plan for the program. Board and staff members report that a major focus will be on resource development.

Recommendation I.2.2.1*³:

MILS is urged to complete the strategic planning process by the end of 2014 resulting in a written strategic plan that defines goals and measurable objectives based on the program's needs assessment and resulting priorities. The plan should include strategies for addressing these needs along with time frames and task assignments for staff and board members.

Recommendation I.2.2.2:

MILS should consider annually developing a staff work plan that carries out its responsibilities for implementation of the strategic plan.

Criterion 4: Evaluation and adjustment

Finding 3: The program does not currently capture quantifiable outcomes of its work other than the CSR required data for LSC and that for its additional funders.

Both as a tool to measure program performance against its stated goals and objectives and to demonstrate its effectiveness to potential funding sources, capturing outcomes of the program's work and quantifying them can be very helpful. Monetary values can be assigned to many types of successful cases such as the prevention of the loss of housing. The case management system should have the capacity to capture this information.

Recommendation I.4.3.1:

MILS should consider capturing, quantifying, and analyzing the benefits of the outcomes of its work that can be presented in its public relations, marketing and resource development efforts.

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

Criterion 1. Dignity and sensitivity.

³ Recommendations in this report will have a Roman Numeral to identify the Performance Area, followed by three numbers identifying, respectively, the Criterion addressed by the recommendation, the number of the finding, and a number designating whether it is the first, second, third, etc., recommendation under that finding. For example, III.2.14.3 designates Performance Area III, Criterion 2, Finding 14, third recommendation under finding 14. There are two levels of recommendations in this report. In your next grant renewal application or competitive grant application, your program will be required to report what it has done in response to Tier One Recommendations instead of submitting a full narrative. Recommendations that are indicated with an asterisk are Tier One recommendation and are intended to have a direct and major impact on program quality and/or program performance.

Intake

Finding 4: The program's intake system provides several portals for access to services.

Clients may access program intake services in four ways. The majority of clients contact the program to request services through the program's toll free intake number available throughout the state of Michigan. Applicants can also place applications for services by walking into the program's offices in Traverse City. The program's intake hours are Monday through Friday from 9:00 a.m. to 12:00 noon, and from 1:00 p.m. to 5:00 p.m. In addition, the program staff provides intake services at various satellite locations throughout the state. These services are connected to clinics which are scheduled and conducted regularly by MILS staff at tribal offices and in partnership with other agencies serving Michigan's Native American population in Detroit and other key areas. Applicants without telephone access or the ability to otherwise connect with the program are offered the option of completing a written application for services. The program reported that there are very few instances when this occurs.

The LSC team learned that the availability of MILS' services is widely publicized throughout the state. Along with the various information outlets used by basic field programs in Michigan, the program publicizes the availability of its toll free intake number on its web site, www.mils.org. Access to intake is also promoted on the program's Facebook page, on the statewide legal services web site, www.michiganlegalaid.org; through MILS' newsletter published at www.turtletalk.wordpress.com, and in the Michigan Indian Directory published by the Michigan Department of Civil Rights and accessed online at michigan.gov/documents. MILS also ensures that information about its intake processes are widely distributed to tribal courts in Michigan and on Indian reservations at the tribal clerks' offices.

Applications for services are accepted and processed by the program's secretary/receptionist who inputs the data into the program's case management system. The office manager provides backup for this responsibility. MILS uses *PIKA* as its case management system and has worked with other programs to enhance its capacities. *PIKA* was recently updated to include questions relating to domestic violence in the home, veterans in the home, and whether the household income is likely to change (increase or decrease). MILS ensures that these questions are asked during the initial intake process. MILS staff also has remote access to the program's case management system when conducting intake from a clinic site.

Once financial eligibility screening and conflicts are checked, eligible applicants are connected immediately to a program attorney for processing of their requests. Attorneys accept these calls on a scheduled rotating basis. Attorneys provide counsel and advice on appropriate applications; however, decisions about accepting cases for extended representation are made at the program's weekly staff and case review meetings. These weekly meetings also serve as opportunities for training of all staff, including those responsible for intake, on issues peculiar to Native American service delivery.

Criteria 2 and 3: Engagement with and Access by the low income population.

Office Locations

Finding 5: MILS is working to expand its visibility and presence throughout the state of Michigan.

At the time of the LSC visit, and for the past several years, MILS provided services from its sole office located in Traverse City, Michigan. MILS once operated an office in Lansing, Michigan which was closed in the wake of budget difficulties a few years prior to the visit. Significant outreach is provided by the program's staff who travel all over the state to provide services to clients. MILS has established a schedule of regular outreach clinics at Indian reservations and in the offices of partnering organizations that provide services to Native Americans. Described by the program as outreach clinics, these events provide MILS with visibility and opportunities to do in-person intake and meet with clients.

During the visit, the LSC team learned that MILS is planning to expand its offices to other parts of the State. One particular tribe has expressed an interest in supporting this effort by providing a small office on its reservation with Internet access. The program noted that if this is successful, it will result in the relocation of one staff attorney to the new location. Further, MILS intends to present this tribe-program partnership as a model to other tribes in key areas throughout the state.

Recommendation II.2.5.1:

MILS should explore opportunities for office and staff expansion in partnership with Michigan tribes and organizations serving Native American clients in critical areas of the State.

Finding 6: The program is committed to providing outreach to its client community.

MILS conducts scheduled legal clinics in various locations throughout the State in collaboration with statewide and regional partners. These clinics are advertised as "Law Days" by some of the program's partners. Based on a regular schedule, MILS staff visits each location and conducts intake, advice and brief services to all eligible clients who are assembled and express a need for assistance. The LSC team interviewed some of these partners who confirmed that these "Law Days" serve a critical need because the location of MILS' main office is challenging for clients who are located in other parts of Michigan. In addition, there are many Native American clients who prefer to conduct their legal affairs in person to the degree possible. MILS does not provide general information at these events. All interaction is based on one-on-one interviews with eligible clients.

The program conducts other types of outreach as well. These include attendance and participation in community legal education events, participation at "pow wows," and involvement in other tribal and community events. MILS also provides speakers for special events as requested by regional and statewide partners. The program expressed a desire to

expand its capacity to provide more direct community legal education events specifically targeting legal issues related to emerging issues in the Native American community.

Recommendation II.2.6.1:

MILS should consider addressing particular emerging issues facing the Native American client population as a part of its “Law Day” clinic schedule.

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

Criterion 1. Legal representation

Staffing and Expertise

Finding 7: MILS’ has a good mix of very experienced and new attorneys who are committed to MILS’ mission and its Native American communities.

At the time of the visit, MILS employed three full time attorneys, including the executive director, the deputy director, and a staff attorney, along with two part-time attorneys. The experience levels range from 27 years for the executive director and seven years for the deputy director to two years for the newest attorneys. They enjoy an excellent reputation as highly skilled, knowledgeable, and committed advocates for the Michigan Indian communities and tribes. Program attorneys are recognized as experts in various areas of Indian law and are frequently consulted by various organizations such as the basic field programs as well as by tribal court judges in other cases.

The MILS attorneys have worked diligently to earn the trust of their client communities and as a result are considered part of that community. In addition to their work in tribal courts, they often attend social and other tribal events. One respondent said that “their presence is duly noted.”

Quality and Quantity of Legal Work

Finding 8: Michigan Indian Legal Services uses the full range of advocacy tools to provide high quality legal services to its client communities.

MILS provides services from negotiation to extended representation as well as permissible legislative advocacy, such as its work with the Indian Law Section of the Michigan State Bar to enact the Michigan Indian Family Preservation Act, to meet their clients’ needs. Their work ranges from advice to full representation and to appeals in tribal, state and federal forums as necessary to obtain their clients’ objectives.

Many of its cases, such as those to enforce the provisions of ICWA and MIFPA, are often of great complexity and at the same time of great importance to both individual Indian clients and

to tribal communities as they work to keep Indian families in tact. For example, a MILS attorney represented a married couple whose child was the subject of a guardianship. The couple had left their child temporarily in the care of a family member while working for a moving carnival. At the end of the season, when the couple asked for the child back, the relative filed for guardianship. Despite the fact that the guardianship violated the Indian Child Welfare Act and the Michigan Indian Family Preservation Act, the state court had denied the couple's requests for court appointed attorneys and had no success in achieving a remedy. Through MILS's representation, the couple was able to have the case dismissed and the child returned to their care.

The LSC team reviewed writing samples provided by MILS advocates in advance of the visit. These were sufficient to meet the purpose for which they were intended. They reflected the types of case work done by MILS from motions to appellate briefs. Program attorneys also have published articles on such issues as the Michigan Indian Family Preservation Act in various publications including bar journals.

The LSC team learned that the program and its work are well respected by the tribal court judiciary, the social service community, the Indian law bar, and tribal entities throughout the State. The judges interviewed by the LSC team described the MILS attorneys as always well prepared, highly knowledgeable, professional, and respectful of their clients. They were highly complimentary of both the experienced attorneys as well as the less experienced attorneys. Social service agency personnel interviewed described their commitment to Native American clients and their mission to provide legal services. Consistently, MILS was described as a firm whose staff is always available for consultations and willing to go the extra mile to help clients. MILS is very productive program especially in light of its limited funding and the complexity of many of its cases. In 2013 the program closed a total of 403 cases which was 73 more cases than it closed in 2012. Of these, 345 were brief service (85.6%) and 58 (14.4%) were extended service cases.

Legal Work Management and Supervision

Finding 9: The program has the elements of a solid system for the management and supervision of its legal work.

The legal work performed by MILS' advocates is managed and guided by a comprehensive set of legal work management and supervisory standards which include: well written case handling and supervision procedures; consistent use of its case management system, PIKA, including usually contemporaneous entering of case notes and documents uploaded to client electronic files. Clients receive confirmation of advice in writing, and the staff consistently uses a centralized calendar that allows staff to coordinate work and cover for each other if necessary. The program conducts open case reviews at least once a year and convenes weekly case acceptance meetings that include discussions of on-going cases. There is no formal review of completed cases before they are closed.

In addition to the formal supervisory structure that exists, there is a rich culture of supervisors having an open door policy and colleagues engaging in frequent case discussions. During

interviews, staff reported that they feel comfortable asking for help from anyone in the program. The LSC team learned that MILS does not make use of a tickler system, and that PIKA provides such a system in the case management system. Legal malpractice insurance policies require that the insured law firm maintain a tickler system to help ensure critical dates such as statute of limitations expirations, motion and appeal filing deadlines, etc. are not missed. The LSC team noted that the executive director believes that the current calendar system is sufficient to meet those requirements.

Recommendation III.1.9.1:

MILS should include in its supervisory protocols a requirement for supervisory review of cases prior to their closure.

Recommendation III.1.9.2:

MILS should consider having an attorney, other than the case handler, review and sign off on all cases at closing, particularly conducting this review for the new attorneys.

Recommendation III.1.9.3:*

MILS should develop and implement a tickler system that meets the malpractice carrier's standard .

Support, Training and Resources

Finding 10: Advocates have access to a wide variety of sources of support for their legal work.

MILS is committed to supporting its advocates and providing them with the tools necessary to produce quality legal representation. Advocates benefit from legal support including, the expertise of the senior attorneys within the program; appropriate specialized email groups such as those available through the National Association of Indian Legal Services (NAILS) and its network. MILS' attorneys have direct contact with a myriad of attorneys who can provide assistance, support and consultation in any number of new or emerging areas of Indian law such as those at the Native American Rights Fund as well as those who are members of the Indian Law Section of the Michigan State Bar. MILS' advocates are provided with computerized legal research tools at their desktop. MILS has secured access to Westlaw at an affordable flat rate for its entire staff. The program also maintains a specialized Indian Law library. The program also receives an email notice of any legislative developments pertaining to Indian affairs.

MILS provides its advocates with ample training opportunities. Although the program does not have a formal, written training policy, staff are encouraged to attend appropriate training events. A primary training resource is ICLE (Institute for Continuing Legal Education). As a legal aid partner, MILS gets a 50% discount on training events and materials and webinars for free. Staff usually attends all or some of the Michigan Poverty Center's five day annual event called the "Road Show" on poverty law which covers recent legal developments.

While they can take advantage of training provided, the LSC team learned that MILS has no specific formal protocol for the training and development of new advocates. Additionally, the program does not conduct performance evaluations of new attorneys until they have been with the program for a year or more.

Recommendation III.1.10.2:

MILS should consider developing a formal protocol for the training and development of new attorneys including a three and six month evaluation to provide formal feedback on their performance.

Criterion 2. Private Attorney Involvement.

Finding 11: Although the program is not required to have a private involvement component, it has utilized private attorneys from time to time in its service delivery.

As the Michigan Indian tribes' successful economic endeavors have generated more income for both the tribes and their members, they have developed tribal government institutions including functioning tribal courts. As a result, the number of private attorneys now specializing in Indian law and appearing in tribal courts is increasing. MILS clients have benefitted from pro bono services provided by the pro bono programs run by the other legal services providers in Michigan. The program's clients have received counsel and advice on a pro bono basis from attorneys practicing in tribal courts. MILS also seeks help from pro bono organizations in Michigan such as the Michigan Litigation Assistance Partnership Project and the Michigan Pro Bono Program.

Recommendation III.2.11.1:

The program is encouraged to consider working with the Michigan State Bar and other partners to increase pro bono participation. For example, the program could consider providing clinics in such areas as expungements, and other types of non-tribal cases where the potential to expand the use of pro bono attorneys can be realized.

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

Finding 12: In addition to referrals, MILS provides some additional program services to and activities on behalf of the eligible client population.

Because of its limited resources, MILS concentrates its work and resources on direct representation. However, it provides community legal education through its newsletters and its Facebook page. It has a table at tribal pow-wows and hands out brochures, fliers, and other legal information to attendees. It developed a specific informational brochure for its tribal court tribal defense project. It drafts motions, protective orders, and other legal documents for pro se litigants in tribal courts.

MILS engages in a number of activities to help social service organizations and governmental entities understand the purposes and requirements of ICWA and MIFPA in order to facilitate voluntary compliance with those requirements. For example, at the request of the State Court Administration, it has participated in CLE training on ICWA and MIFPA. The program has partnered with other organizations to create a required training curriculum on ICWA and MIFPA for all state employed social workers.

The program also worked with the Wisconsin Judicare legal service program to provide services temporarily in the tribal court of the Lac Vieux Desert Band of the Lake Superior Chippewa Indians. The reservation is on the Michigan-Wisconsin state border

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

Criterion 1. Board governance.

Finding 13: The MILS board provides effective oversight and governance over the program.

MILS is governed by a strong board of trustees which appears to be highly engaged and committed to the program's mission and operations. Board members who were interviewed were well-informed about the program's achievements and challenges. Board meetings are well attended, using telephone conferencing as an option for those who are unable to travel to the meetings. The board membership which is majority Native American appropriately reflects the geographic diversity of the service area. The board plans and executes a regularly scheduled board and staff retreat. At the time of the visit, the board had begun its planning for the next retreat scheduled for June 2015.

The LSC team found that client eligible trustees are engaged and feel very much valued by other members of the board as well as by the program and its leadership. At the time of the visit, some leaders on the board expressed that there had been some difficulty in recruiting and retaining new client eligible trustees from various tribes. In addition, MILS' board has not regularly participated in board member training.

The board regularly reviews financial and management reports provided as a part of the agenda for board meetings. Regular reports are provided to the board regarding the program's litigation. The executive director is usually evaluated by the board of trustees annually; however, the board last evaluated the executive director in 2012. The board's personnel committee considers the executive director's self-evaluation along with formal input from all staff, and prepares a final report for the full board's review. Board members noted that they have the opportunity to observe the director's performance through his work with the board and quarterly management reports. They provide feedback to the personnel committee before the evaluation is presented to the director by the board chair.

Recommendation IV.1.13.1*:

In planning its 2015 board – staff retreat, the board should include an opportunity for board training. This event should include particular training to equip and inform client eligible trustees.

Recommendation IV.1.13.2*:

The board of trustees should conduct an evaluation of the executive director in 2015. Should they be required, additional resources on executive director evaluations are available at LSC’s Legal Resource website at www.lri.lsc.gov.

Criterion 2. Leadership

Finding 14: The program’s leadership is well-respected in the Native American community and throughout Michigan.

MILS is led by a director who has practiced law since 1977. He has worked for MILS for more than 27 years and has been its director for 25 years. The executive director is committed to the work of the program, and is well-respected by MILS’ board and staff. He described his leadership as collaborative, and noted that while staff respects his role as the director in decision-making, he solicits input from staff on many decisions during weekly staff meetings. Leaders in the tribal community described the director as an “honorable man,” one whom the Native American community trusts. He was consistently cited by community partners and agency personnel as a committed advocate for the Native American community. The executive director informed the LSC team that he is preparing for retirement, and that he is devoted to ensuring that the program will be able to transition to new leadership smoothly.

Following its discussions in 2009, the MILS board began the process of succession planning by ensuring that staff members were cross-trained on a number of programmatic functions that were the responsibility of executive director. These included grants management, technology, accounting and financial reporting. Two staff members were selected by the board to participate in this project, with the board receiving regular updates on the project. In 2012, in an effort to further expand its efforts, the board created the position of deputy director and hired one of the two staff attorneys for the position. The LSC team noted that the deputy director is working with the executive director to accomplish the program’s mission. A lawyer with 14 years of legal experience, she is a tribal member with more than 12 years of experience in tribal law practice. The deputy director has an impressive work history, and is respected by the board, staff and the Native American community. She appears very knowledgeable, energetic and poised to assume the responsibilities of program leadership.

Despite the lack of a written leadership succession plan, the board has moved forward with creating the deputy director position and cross training other staff. However, the board has not formally and clearly articulated its expectations with regard to transition planning, including expectations of having the deputy director assume the position of executive director on an interim or permanent basis. While the executive and deputy directors work well together, and have currently achieved a balance in terms of the division of work duties, without more structure,

the current arrangement has the potential for conflict that can disrupt plans for transition. For example, the LSC team was concerned that the board may need to consider the expansion of the scope of the deputy director's authority so that she can more easily perform the duties assigned, and be of additional assistance to the executive director.

Recommendation IV.2.14.1*

The MILS board should formally clarify its expectations of both the executive director and deputy director as the program moves toward leadership transition. This would be helpful and instructional to the executive and deputy director and the entire MILS staff.

Criteria 3, 4 and 5: Overall administration, including financial⁴ and human resources administration.

Finding 15: As a small program, MILS makes use of its staff's administrative capacities and expertise.

The program is fortunate to have employed a talented staff that works together to accomplish the program's mission. Along with his duties as a litigator, the executive director also acts in the capacity of human resources director, technology manager and bookkeeper. He is assisted in some of these duties by the deputy director and a very capable administrative assistant. While the directors appear to have developed a system for administering the program that they believe currently works, LSC is concerned that the bulk of the program's critical functional and management responsibilities, including financial management reside in the executive director. To its credit, historically MILS has been fortunate in sustaining the program financially by combining additional responsibilities with the executive director's position. Going forward as the program expands and seeks additional funding sources, MILS must consider whether its current administrative management practices are practical. This is particularly critical since at the time of the visit the executive director noted that he had a caseload of about 15 open cases and is working on a federal recognition case for the Grand River Band of Ottawa Indians.

The executive director is responsible for the maintenance and operation of the program's technology. The program has a strong technology infrastructure and is distinguished among other Michigan providers as innovative in the application and use of technology to enhance its legal services delivery. For example, some time ago MILS instituted an internal procedure that continues to move it toward a paperless office. From incoming mail to outgoing correspondence and records, the program employs digital technology to scan and preserve documents in a well designed file management system. The program stresses the availability of administrative and client files electronically as a critical tool in law office operations, conserving physical space, and in providing quality legal services to clients.

⁴ This program quality visit was conducted by the Office of Program Performance (OPP) for the purposes set forth in the introduction. OPP findings and recommendations under this criterion are limited to staffing, organization and general functions. Assessment of fiscal operations is conducted by other offices at LSC.

The LSC team reviewed job descriptions and the program's organizational chart. At the time of the visit, the program's organizational chart did not clearly depict the roles, authority, responsibilities and supervisory structure of the program. For example, the chart depicted each individual member of the board having authority with the executive and deputy directors as one unit and all staff reporting to them. The team further reviewed the chart with the executive director who indicated that the chart would be re-designed to reflect the board's governance and authority and the chain of responsibility and authority that flows from the board to the executive and deputy directors as well as the staff.

Primarily, MILS' executive director and administrative assistant are responsible for the financial management of the program. The program uses *Sage Complete Accounting* as its financial database. Both the director and the administrative assistant have received training in the use of the system. The staff also uses spreadsheets to track program expenses and revenue, and for financial forecasting. In view of the small staff, the executive director noted that various duties related to financial management have been assigned to other members of staff in order to ensure sound internal controls. Budgets are developed by the executive director and presented to the board's finance committee for review before approval by the full board. The executive director also produces a year to date revenue and expense report, cash flow analysis and fund balance report which is reviewed quarterly by the program's board of directors.

The program usually provides annual evaluations for all staff. Performance standards were last updated in 2012. At the time of the visit, most staff had completed a portion of the evaluation process for the previous year; however, the executive director stated that the management portion of the evaluation had not yet been completed. All MILS staff, including administrative and support staff would benefit from the development of a professional development plan as a part of their evaluation process. The plan could identify career goals as well as training needs.

Recommendation IV.3.15.1*:

Program should re-design its organizational chart so that the lines of authority and responsibility clear for board and all staff.

Recommendation IV.4.15.2*:

As the program expands its resources, the MILS board should explore its options for hiring a part-time financial manager or for outsourcing this function to a financial consultant.

Recommendation IV.5.15.3:

MILS management should complete the annual evaluations of all staff members.

Criterion 6: Internal communication.

Finding 16: The program's staff appeared to have varying levels of understanding regarding the direction and future of the program.

MILS has been fortunate to assemble a talented team to deliver services to the Native American community in Michigan. Because of its size, MILS has nurtured a close and informal environment that is conducive to the continued development of this teamwork. A key component of the program's continued success in this area is its commitment to open, frequent, effective communications. Despite this, staff appeared to have varying levels of understanding and information about the program's plans, staffing and its direction. For example, at the time of the visit some staff expressed concern about the month to month employment of a new member of the team and the need to cover anticipated staff departures..

While the program has weekly staff meetings prior to convening its case review session, some staff were not convinced that these meetings were being used effectively to update them about the more intimate and critical details related to program operations. The LSC team noted some signs of low staff morale as some staff members expressed that they regarded themselves as being "outside the process." The LSC team noted that the program has the capacity to work proactively to enhance and develop the team it has assembled. In order to accomplish this, each employee must see their place and function as critical to the team's success.

The program publishes a very attractive newsletter that provides the board, staff, tribal leadership, community organizations and other providers with up to date news about the program and its activities. The newsletter is designed by the program's administrative assistant, and serves as a critical tool for resource development.

Recommendation IV.6.16.1:*

MILS should explore ways to enhance its internal communications. The program should use staff meetings to provide updates and information to staff so that the team that has been assembled can remain focused and united in its quest for excellence in service delivery.

Criterion 7: General resource development.

Finding 17: MILS is grappling with the issues of insufficient resources.

As is the case with many legal services programs in the current economic climate, MILS recognizes that resource development is one of the primary challenges for the program. MILS has a 3-pronged approach to its resource development agenda. The program first intends to develop and expand its donor base. Secondly, MILS is engaged in enhancing its relationships with various tribes in order to pursue funding opportunities that benefit tribal members. In addition, the program has a history of sponsoring fundraisers, and will continue to look for creative ways to raise money in the future. The program remains alert for other funding opportunities that may be presented. The MILS board members who were interviewed expressed a commitment to the program's fundraising agenda, and are looking to expand the board's involvement in this part of the program's activities.

Recommendation IV.7.17.1:*

The MILS board should ensure that the program's plan for fundraising is fully developed and included as a part of the program's strategic plan. The fundraising plan should include incremental steps and a time line for implementation.

Criterion 8. Coherent and comprehensive delivery structure.

(This criterion is covered throughout this report.)

Criterion 9. Participation in an integrated legal services delivery system

Finding 18: The program and its leadership are an integral part of the Michigan legal services delivery system.

The executive director is described as a leader within the wider legal services and state bar communities and participates in a variety of projects and activities of the provider community. He particularly was involved in the development of technology for the legal services community. The program also actively participates in the Legal Services Association of Michigan, a consortium of legal services providers who meet regularly to facilitate a comprehensive and collaborative approach to legal services delivery. Program attorneys are active members and participants in the Indian Law Section of the Michigan State Bar.