



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

RHODE ISLAND LEGAL SERVICES, INC.
CASE SERVICE REPORT/CASE MANAGEMENT SYSTEM REVIEW
May 21-25, 2012

Recipient No. 140000

I. EXECUTIVE SUMMARY

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

Finding 2: Overall, on-site review of RILS' intake screening practices and procedures, a review of RILS' employee handbook, and select interviews with staff demonstrated general compliance with relevant sections of the regulations and the CSR Handbook. However, certain exceptions were noted with respect to screening for reasonable income prospects and proper application of Program Letter 06-2 during intake screening.

Finding 3: Sampled cases evidenced that RILS maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines (FPG). RILS' revised income eligibility policy requires certain revisions in order to be compliant with 45 CFR Part 1611.

Finding 4: Sampled cases evidenced that RILS maintains the asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. Additionally, RILS' revised asset eligibility policy, subject to slight revisions, is compliant with 45 CFR §§ 1611.3(d) and 1611.3(d)(1) and (e). Additionally, RILS' asset eligibility policy requires certain revisions in order to be compliant with 45 CFR §§ 1611.3(d), 1611.3(d)(1) and (e).

Finding 5: Sampled cases evidenced compliance with 45 CFR § 1626.6(a) (Restrictions on legal assistance to aliens). RILS' policy requires certain revisions to be compliant with 45 CFR Part 1626.

Finding 6: Sampled cases evidenced substantial compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).

Finding 7: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts). Additionally, RILS' policy evidenced compliance with 45 CFR Part 1636.

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

Finding 9: Sampled cases evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).

Finding 10: With three (3) minor exceptions, sampled cases evidenced that RILS' application of the CSR case closure and problem code categories is consistent with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011).

Finding 11: With one (1) minor exception, sampled cases evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (dormancy and untimely closure of cases).

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

Finding 13: The on-site review indicated that RILS is in compliance with determination of compliance with 45 CFR Part 1604 (Outside practice of law). Additionally, RILS' revised policy was reviewed and found to be compliant.

Finding 14: Review of fiscal records, sampled cases, and publications in conjunction with other available materials, along with interviews with selected staff evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 15: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases). Additionally, the revised policy evidenced compliance with the requirements of 45 CFR Part 1609.

Finding 16: Discussions with RILS subsequent to the on-site review confirm compliance with 45 CFR § 1610.5 (Notification). No determination of compliance can be made at this time in regards to the remaining portions of 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity).

Finding 17: RILS is in compliance with 45 CFR Part 1614 which is designed to ensure that Recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. However, RILS must develop a cost allocation methodology for indirect costs that is based on reasonable operating data and develop a screening mechanism that will ensure that no financially ineligible PAI cases are reported to LSC.

Finding 18: A limited review of fiscal records and staff interviews evidenced that RILS is in compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization.

Finding 19: RILS is in compliance with 45 CFR Part 1635 (Timekeeping requirements).

Finding 20: Sampled cases evidenced compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

Finding 21: Sampled cases reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). RILS' revised policy requires certain revisions in order to be compliant with 45 CFR Part 1612.

Finding 22: Sampled cases evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

Finding 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions). Additionally, policies reviewed evidenced compliance with 45 CFR Part 1617.

Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting). Additionally, RILS' policy is complaint with 45 CFR Part 1632.

Finding 25: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings). Additionally, the revised policy evidenced compliance with 45 CFR Part 1633.

Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners). Additionally, the policy is compliant with 45 CFR Part 1637.

Finding 27: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation). RILS' policy requires certain revisions in order to be with 45 CFR Part 1638.

Finding 28: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing). Policies reviewed evidenced compliance with 45 CFR Part 1643.

Finding 29: Sampled cases evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a)(8) (Abortion), 42 USC 2996f § 1007 (a)(9) (School desegregation litigation), and 42 USC 2996f § 1007 (a)(10) (Military selective service act or desertion)).

Finding 30: RILS is in compliance with the requirements of 45 CFR § 1620.6, which requires staff who handle cases or matters or make case acceptance decisions, sign written agreements indicating they have read and are familiar with the Recipient's priorities, have read and are familiar with the definition of an emergency situation and procedures for dealing with an emergency, and will not undertake any case or matter for the Recipient that is not a priority or an emergency.

Finding 31: Policies reviewed evidenced compliance with the requirements of 45 CFR Part 1644 (Disclosure of case information).

Finding 32: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1639 (Restrictions on welfare reform). The policy, subject to slight revisions, is compliant with 45 CFR Part 1639.

Finding 33: A testing of sampled internal control protocols noted no deficiencies in bank reconciliation procedures, cash receipt procedures, and cash disbursement procedures.

II. BACKGROUND OF REVIEW

During the week of May 21 through May 25, 2012, the Office of Compliance and Enforcement (OCE) staff conducted a Case Service Report/Case Management System (CSR/CMS) review at Rhode Island Legal Services, Inc. (RILS). The purpose of the visit was to assess the program's compliance with the LSC Act, regulations, and other applicable guidance such as Program Letters, the LSC Accounting Guide for LSC Recipients (2010 Edition), and the Property Acquisition and Management Manual. The visit was conducted by a team of three (3) Program Counsel and two (2) Fiscal Analysts.

RILS is Rhode Island's major law firm offering legal representation to low-income individuals and families in the following communities: Block Island, Wakefield, Peacedale, Westerly, Newport, Portsmouth, Exeter, Providence, Kent, and Bristol.¹ Both the administrative office of the program, as well as RILS' central office, is located in Providence, Rhode Island. RILS received grant awards from LSC in the amounts of \$1,634,835.00 for 2010, \$1,228, 770.00 for 2011, and \$1,048,636.00 for 2012. In its 2011 CSR submission to LSC, the program reported 5,737 closed cases; in its 2010 CSR submission to LSC, the program reported 5,559 closed cases. RILS' 2010 and 2011 self-inspection certifications revealed a 5.8% and a 3.22% error rate respectively in CSR reporting.

The OCE team interviewed members of RILS' upper and middle management, staff attorneys, and various support staff. RILS' case intake, case acceptance, case management, and case closure practices and policies in all substantive workgroups were assessed. In addition to interviews, case file review was conducted. The sample case review period was from January 1, 2010 through March 30, 2012. Case files review relied upon randomly selected files, as well as targeted files identified to test for compliance with LSC requirements, including financial eligibility, potential duplication, timely closing, and proper application of case closure categories. In the course of the on-site review, the OCE team selected 336 cases to review onsite, which included 40 targeted files. All of the selected cases were reviewed.

A. SCOPE OF REVIEW

The on-site review was designed and executed to assess program compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that RILS correctly implements the CSR Handbook (2008 Ed., as amended 2011). Specifically, the review team assessed RILS for compliance with the regulatory requirements of: 45 CFR Part 1611 (Financial eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); 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 § 1610.5 (Notification); 45 CFR Part 1614 (Private attorney involvement);² 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping

¹ RILS, in its comments to the Draft Report, noted that the communities served by its Main Office had been omitted in the Draft Report.

² In addition, when reviewing files with pleadings and court decisions, compliance with other regulatory restrictions was reviewed as more fully reported *infra*.

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 legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1639 (Welfare Reform); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); and 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion).

1. Special Considerations

Prior to the on-site review, OCE learned that, on February 20, 2012, RILS' server and back-up server experienced complete system failure. As a result of the system failure, RILS' financial data for the years 2008 through 2012 was severely compromised. Therefore, approximately a month after the system failure, RILS requested and obtained from the Office of the Inspector General (OIG) an extension to file its Financial Statement for audit year 2011.⁴ In light of RILS' server issues and the potential impact on the fiscal portion of the visit, a telephone conference was scheduled between the members of RILS' management team and the members of the OCE review team in order to ascertain the full extent of the lost financial data.⁵

During the conference call, RILS explained that the data contained in RILS' general ledger for the years 2008-2012 had either been destroyed or corrupted by the server crash. RILS indicated that it was in the process of re-entering the financial information for the effected years into the system. RILS also explained the attempts made to recover the lost financial data. Thereafter, RILS continued to provide documentation demonstrating its efforts and supplementing its explanation.⁶

Based on the information provided in the conference call, the members of the team met to discuss alternative methods and documentation that could replace the financial data that would have been made available to the fiscal team if the crash had not occurred.⁷ Based on suggestions made at this meeting, correspondence was sent asking RILS to confirm the availability of

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. During the instant visit, LSC's review and enforcement of this regulation was therefore only for the period prior to December 16, 2009.

⁴ In a letter dated March 22, 2012, the OIG approved an extension until October 1, 2012 for submission of RILS' financial statement for audit year 2011. In addition to the extension, RILS was directed to provide a status update by August 2, 2012, outlining the progress made to date in restoring the lost financial data.

⁵ The Executive Director, the Deputy Director, and the Finance Officer were among the individuals who participated in the conference call on behalf of RILS. Two (2) members from the review team participated on the conference call on behalf of OCE, the team leader and one (1) Fiscal Analyst.

⁶ The supplemental documentation included correspondence between RILS and a consultant hired to recover the lost information. Permission was sought and obtained from the then Acting Director of OCE and the Director of Office of Information Technology (OIT) so that LSC's OIT Department could review this documentation to offer additional insight into the server and back-up server crash. In addition, RILS provided copies of the claim filed with its Insurer in an attempt to recoup the damages from the crash.

⁷ The then Acting Director of OCE was also present at this brainstorming meeting.

supplemental financial documentation.⁸ RILS responded promptly and verified that the various requested documents would be available to the members of the fiscal team at the start of the visit. During the course of the on-site review, RILS made one (1) final attempt to recover the financial data from the server by shipping it to a server recovery company located in California. RILS indicated that it would keep OCE apprised of any progress. Subsequent to the on-site visit, RILS contacted OCE and stated that the server recovery company was successful and that recovered data is now being re-integrated into the current software system.

2. Fiscal Considerations

Due to RILS' server issues and the resulting corruption of certain financial data, special deliberations were taken prior to the visit in order to craft a productive fiscal review that would allow the members of the fiscal team to determine compliance with the regulations, while at the same time taking special care not to place any undue and unnecessary burden on RILS' staff. With this balance in mind and based on input from the review team, correspondence dated May 2, 2012 was drafted requesting RILS make certain documentation available prior to the on-site visit⁹ and verify that certain documents would be available at the start of the on-site visit.¹⁰ RILS promptly responded and confirmed the availability of all documents with the exception of the general ledger.

Fiscal areas reviewed included, but were not limited to: 45 CFR Part 1614 (Private attorney involvement); 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1630 (Cost standards and procedures); and 45 CFR Part 1635 (Timekeeping requirement). Fiscal records were also reviewed for compliance with 45 CFR Part 1608 and 45 CFR Part 1610. In addition, targeted financial review was conducted through a testing of RILS' internal controls, testing of program records, and interviews with financial staff and program management. For the first four (4) days of the review week, two (2) fiscal team members conducted an assessment of program financial records and selected internal controls at the Providence administrative office.

3. Case Review Procedures

By letter dated March 15, 2012, OCE requested that RILS provide a list of all cases reported to LSC in its 2010 CSR data submission (closed 2010 cases), a list of all cases reported in its 2011

⁸ In addition, the then Acting Director of OCE obtained permission from the OIG for the team to speak with RILS' independent public auditor during the on-site review regarding the server issue and the residual effect on RILS' financial records. Prior to the visit, the OIG offered to be available for the duration of the review, should any member of the team have any questions regarding the server and the back-up server.

⁹ This list included the accounting manual, the vendor list, documentation relating to the server crash, the disaster recovery plan, a list of new contracts entered into within the last six (6) months, copies of financial reports provided to RILS' Board of Directors for the years 2010-2012, and RILS' PAI plan, methodology, and budget.

¹⁰ The list of documents to be made available at the start of the on-site visit included bank statement/client trust fund statements/reconciliations for all accounts for years 2010-2012, any hard copies of the general ledger, chart of accounts for years 2010-2012, credit card statements for years 2010-2012, budget and variance reports, list of payments made for the years 2010-2012, payrolls register by employee, staff listing (active and inactive), deposit slips for the years 2010-2012, cash receipt logs and/or cash receipts journals for the years 2010-2012, insurance policies, work hour policy, donor written notification letters and donor lists for the years 2010-2012, net fund asset balance, late fee payments for the years 2010-2012, electronic and debit transactions, staff time and attendance records, copies of checks in sequential order with supporting documentation and a list of all inactive bank accounts.

CSR data submission (closed 2011 cases), a list of all cases closed between January 1, 2012 and March 30, 2012 (closed 2012 cases), and a list of all cases which remained open as of March 30, 2012 (open cases). OCE requested that the lists contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closing category assigned to the case, and the funding code assigned to the case. OCE requested that two sets of lists be compiled - one for cases handled by RILS' staff and the other for cases handled through RILS' PAI component. RILS 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).

RILS, by correspondence dated March 21, 2012, notified OCE that it believed that providing the requested material in the specified format would violate the attorney-client privilege. As a result of this correspondence and through a series of negotiations, OCE and RILS reached an agreement, memorialized in writing dated April 11, 2012. Pursuant to this agreement RILS agreed to provide the requested case lists through the use of unique client identifiers (UCI). The UCI agreed to were:

- a. *Staff case lists*: In lieu of the client's full name, a UCI composed of an alpha-numeric combination composed of the first initial of the client's name, the first three letters of the client's last name, the client's birth date and the client's gender letter ("F" or "M").
- b. *Volunteer Lawyer Program case lists*: In lieu of the client's full name, a UCI composed of an alpha-numeric combination composed of the first initial of the client's name, the first three letters of the client's last name, the client's age and the client's gender letter ("F" or "M").
- c. *Group clients*: In lieu of the group client's full name, a UCI composed of an alpha-numeric combination composed of the first three letters of the group client's name, the case acceptance date and in place of a gender letter designation, the letter "O" (other) or "G" (group) will be used.¹¹

Thereafter, an effort was made to create a representative sample of cases that the team would review while on-site. The sample was developed proportionately among 2010, 2011, and 2012 closed and 2012 open cases. The sample consisted largely of randomly selected cases, but also included targeted cases selected to test for compliance with the CSR instructions relative to *e.g.*, timely closings, proper application of the CSR case closing categories, and duplicate reporting.

4. *Procedures for on-site review of case files*

In order to honor the UCI formats agreed to above, an additional agreement was reached as to how necessary documentation would be assessed during case review. The parties agreed to certain procedures when reviewing the following documentation:

¹¹ If there were more than two (2) group clients accepted on the same day, RILS agreed to use another date associated with the case from the following selection: intake date, case closing date, or date of first court filing in the case.

- a. *Financial records*: It was agreed that the review team would have un-redacted access to a client's income and asset eligibility information, including waivers where one was necessary. In addition, the parties agreed to provide un-redacted access to a client's financial records where the client's identity was disclosed to a third party. Where, however, there was no such disclosure, RILS had the option to leave the client's identity un-redacted on the financial records or it could opt to redact the client's name and replace it with the appropriate UCI format proposed above.
- b. *Citizenship attestations*: It was agreed that the review team would have un-redacted access to citizenship attestations where the client's identity was disclosed to an unprivileged third party. Where, however, there was no such disclosure, the review team agreed to accept partial disclosure of client names in a manner consistent with the agreed upon UCI formats as outlined above and in a manner which allowed the review team to determine compliance with 45 CFR Part 1626.
- c. *Retainer agreements*: It was agreed that the review team would have un-redacted access to retainer agreements where the client's identity has been disclosed to an unprivileged third-party. Where, however, there was no such disclosure the review team agreed to accept partial disclosure of client names in a manner that was consistent with the agreed upon UCI formats and in a manner which would allow the review team to determine compliance with 45 CFR § 1611.9.
- d. *Statement of facts*: It was agreed that the review team would have un-redacted access to a client's statement of facts in order to determine compliance with 45 CFR § 1636.3(a).
- e. *Information otherwise available in public records*: It was agreed that the review team would have un-redacted access to *e.g.*, pleadings, court orders, in order to determine compliance with 45 CFR Parts 1608, 1609, 1613, 1615, 1617, and former 1642.

B. ON-SITE OBSERVATIONS

During the visit, access to case-related information was provided through staff intermediaries. Pursuant to the OCE and RILS agreement of April 11, 2012, RILS' staff maintained possession of the files 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.¹²

RILS' management and staff cooperated fully in the course of the review process. As discussed more fully below, RILS was made aware of compliance issues during the on-site visit. This was accomplished by informing intermediaries, where appropriate, the Executive Director, and the

¹² In those instances where it was evident that the nature of the problem and/or the nature of the assistance provided had been disclosed to an unprivileged third party, such discussion was more detailed, as necessary, to assess compliance.

Deputy Director of any compliance issues uncovered during case review and interviews with RILS' staff.

At the conclusion of the visit, on May 25, 2012, OCE conducted an exit conference during which RILS was provided with OCE's initial findings and was made aware of the areas in which compliance issues were found: specifically, certain issues were noted in RILS' financial eligibility and citizenship screening policies as well as its PAI cost allocation methodology for indirect costs.

By letter dated October 25, 2012, OCE issued a Draft Report containing Findings, as well as Recommendations and Required Corrective Actions, stemming from the onsite review. The program was given 30 days to provide written comments to that Report. On December 6, 2012, RILS requested an extension, until January 14, 2013, to submit these comment. RILS' comments were received on January 14, 2013.

III. FINDINGS

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

Recipients are required to utilize automated case management system (ACMS) and procedures which will ensure that information necessary for the effective management of cases is accurately and timely recorded in a case management system. At a minimum, such systems and procedures must ensure that management has timely access to accurate information on cases and the capacity to meet funding source reporting requirements. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.1.

RILS uses WNYLC TIME software for its ACMS. Interviews with the Deputy Director, as well as on-site observations, indicate that WNYLC TIME provides a web-based, centralized ACMS. A brief demonstration of the system revealed that it is capable of storing case information and generating a variety of reports, *e.g.*, case lists according to staff, open date, and problem code necessary to effective case management and attorney supervision. Based on a comparison of the information yielded by the ACMS to information contained in the case files sampled, RILS' ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

There are no recommendations or required corrective actions.

RILS did not offer any comments regarding Finding No. 1 in its response to the Draft Report.

Finding 2: Overall, on-site review of RILS' intake screening practices and procedures, a review of RILS' employee handbook, and select interviews with staff demonstrated general compliance with relevant sections of the regulations and the CSR Handbook. However, certain exceptions were noted with respect to screening for reasonable income prospects and proper application of Program Letter 06-2 during intake screening.

General Overview

As stated earlier, RILS has two (2) offices; a main or central office in Providence and a branch office in Newport. According to the "Staffing and Organization Chart," the Newport office is composed of three (3) workgroups; housing, public benefits, and family law. The Providence office, the larger office, is divided into four (4) workgroups; health education welfare workgroup¹³, housing center¹⁴, Debt, Employment, Bankruptcy, and Tax (DEBT)¹⁵, and the family law center. Each workgroup is comprised of a combination of staff attorneys, paralegals and Managing Attorneys, although workgroup composition varies from workgroup to workgroup.¹⁶ As a result, the intake screening process is somewhat decentralized as almost any workgroup member can conduct intake screening. Therefore, the screening process also varies from workgroup to workgroup, staff member to staff member, and office to office. These variations, for the most part, are benign; except where specifically noted.¹⁷

The intake procedures of RILS' offices were assessed by interviewing support staff, Managing Attorneys, and staff attorneys and by an on-site demonstration of the ACMS, WNYLC Time. The interviews and the evaluation of the ACMS revealed that intake procedures performed by staff generally support the Program's compliance-related requirements with respect to obtaining written citizenship attestations, performing conflict and duplicate checks at the start of intake screening, and considering all authorized exceptions and factors when screening an applicant for income eligibility. However, certain exceptions were noted by the review team.

First, staff do not consistently screen for reasonable income prospects as required by 45 CFR § 1611.7(a)(1). Secondly, application of Program Letter 06-2 regarding the Violence Against Women Act 2006 (VAWA) is inconsistent; with the Newport office correctly applying it during the screening process, while in the main office, those interviewed seemed uncertain as to how to apply it during the screening process. Third, a review of RILS' Practice and Procedure Manual (Manual) incorrectly implies that LSC funds may not be used in cases where legal assistance was provided to a victim of domestic violence or whose child had been battered in the United States and the Manual incorrectly states that those cases are not eligible to be reported to LSC.

¹³ This workgroup has three (3) sub-sets: public benefits, senior legal assistance network, and education.

¹⁴ The housing center workgroup is made up of four (4) sub-sets: housing preservation and development, tenants' rights, healthy homes project, and foreclosure prevention.

¹⁵ The DEBT workgroup is composed of four (4) sub-units: consumer, debt, and bankruptcy, low income tax clinic, employment law, and the responsible parent project.

¹⁶ For example, according to the "Staffing and Organization Chart" in the education workgroup there is one (1) attorney while the public benefits workgroup is composed of a unit head, a staff attorney, and two (2) paralegals.

¹⁷ See below discussion regarding Program Letter 06-2, Violence Against Women Act 2006.

RILS' INTAKE SCREENING PROTOCOL

Intake screening is conducted in both offices by court referral and by appointment. Depending on staff availability, walk-ins may be screened the same day in the Newport office, whereas, in the main office walk-ins are provided an appointment for intake screening to occur at a future date.

In addition, RILS developed a sophisticated computerized central call log, known as rilsintake.org. It is accessible by any staff member in either the main office or the branch office. The receptionist/switchboard operator enters the applicant's background information into the log. This information includes the applicant's name, phone number, the subject matter the applicant is calling regarding, and any upcoming court dates. Once entered into rilsintake.org, the applicant's information is available to any staff member to follow-up upon. Those interviewed and a review of the Manual indicated that workgroups are generally responsible for following up on the calls listed in the log in a timely fashion.

Intake screening is conducted by entering the applicant's responses into the ACMS and/or, in certain instances, by having the applicant complete intake forms. However, most intake screening in both offices is done by directly recording the applicant's responses into the ACMS. The ACMS requires an applicant's background information, *e.g.*, as name, address, birth date, contact information. It also requires the screener to inquire as to an applicant's income, assets, household occupants, and citizenship or alien eligibility status.

A. Compliance areas evaluated in regards to intake screening protocol

1. CSR Handbook (2008 Ed., as amended 2011), § 3.2 Duplicates and Conflicts:

Staff at both offices reported that duplicates and conflicts are verified at the very beginning of the intake screening process. In the main office, those interviewed indicated that conflicts and duplicates are determined by entering the applicant's name and social security number into the ACMS. If there appears to be a conflict, those interviewed indicated that the possible conflict is taken to a Managing Attorney/workgroup head for verification.¹⁸ If there is no conflict, intake screening continues. Those interviewed in the Newport office indicated that in addition to using the ACMS to check for conflicts and duplicates, staff will at times, use his/her institutional knowledge as staff members indicated they have been employed in that office since 1975, so they are familiar with the members of the community.

2. CSR Handbook (2008 Ed., as amended 2011), § 3.6 Limitation of Defaults in the ACMS:

The ACMS requires the intake screener to inquire as to citizenship. On-site observations indicated that this section defaults to "not qualified." This was brought to the attention of RILS' management who explained that "not qualified" is a prompt, letting the screener know that citizenship screening has not been completed. The Deputy Director provided a

¹⁸ However, the Education workgroup is composed of one (1) staff attorney, so that attorney may verify the conflict herself or may elect to bring the matter to a unit head/managing attorney.

computer print-out with all of the defaults in the ACMS and a review of the default print-out contained a heading marked “Data Validation Issues” which indicated and flagged that citizenship screening (along with other areas containing defaults) had not been completed.

3. Financial Eligibility Screening 45 CFR Part 1611:

i. 45 CFR Part 1611 Income Eligibility Screening:

Those interviewed at the Newport and Providence offices regarding financial eligibility screening expressed understanding that an applicant will be considered eligible for legal assistance if the applicant’s income is under 125% of the Federal Poverty Guidelines (FPG). If the applicant’s income is over 125% of the guidelines, but below 200% of the guidelines, interviews and on-site observations through a test applicant of the ACMS indicated that a “spend-down” applying permissible deductions is correctly applied.

ii. 45 CFR §§ 1611.2(d), 1611.3(d)(1), and 1611.3(e) Asset Eligibility Screening:

Those interviewed at the Newport and Providence offices revealed that staff members are familiar with the categories of assets that could be excluded by RILS as well as the asset ceiling amounts.

iii. 45 CFR § 1611.7(a)(1) Reasonable Income Prospects Screening:

Initially, the on-site observations revealed that intake staff at both offices did not consistently inquire into the reasonable income prospects of applicants as required by 45 CFR § 1611.7(a)(1).¹⁹ However, this issue was brought to the attention of RILS’ management and addressed prior to the exit conference. As a result, reasonable income prospects screening is now incorporated as a necessary step of RILS’ intake screening process because it has been made a specific inquiry in the ACMS.

Subsequent to the on-site review, on June 28, 2012, via email, RILS confirmed that staff was provided training regarding reasonable income prospects screening.

4. 45 CFR Part 1626 Citizenship and Eligible Alien Status Screening:

Those interviewed at the Newport office and the Providence office demonstrated familiarity with the alien eligibility requirements of 45 CFR Part 1626. Interviews at both locations, as well as a review of the Manual, the retainer agreement, and the intake questionnaire used by the housing workgroup, all indicate that United States citizenship status is attested to, in a format compliant to CSR Handbook (2008 Ed., as amended 2011), § 5.5, during intake screening.

¹⁹ Interviews at the Newport office indicated that staff sometimes screen for reasonable income prospects and include applicant responses in the “notes” portion of the ACMS.

Those interviewed reported that written citizenship attestations are obtained for those applicants who walk into the office. This is in compliance with 45 CFR § 1626.6(a) and CSR Handbook (2008 Ed., as amended 2011), § 5.5, which requires Recipients to obtain written citizenship attestations whenever program staff has in-person contact with the applicant.

In cases where the applicant cannot attest in writing to United States citizenship, those interviewed at both offices reported that verification of eligible alien status is obtained through use of the “Eligibility for Representation” form. This review demonstrated that the form outlines the different types of acceptable alien eligibility statuses and acceptable documentation. As part of verifying eligible alien status, RILS created a second layer of screening; not only must the initial screener verify eligibility status, but a Managing Attorney is also required to confirm that the applicant has provided acceptable documentation of alien eligibility status by signing and dating the form. However, as discussed in detail in Finding No. 5, this form should be revised to help ensure adequate screening.

5. Program Letter 06-2 VAWA 2006:

The on-site review revealed some inconsistency among offices with the application of Program Letter 06-2 regarding VAWA, with respect to neutralizing the requirement for a signed citizenship attestation or alien eligibility documentation for a non-United States citizen in cases of domestic violence. Those interviewed in the Newport office demonstrated an understanding of Program Letter 06-2 and could explain when to apply it. In the Providence office, however, staff attorneys interviewed seemed hesitant and uncertain when asked to explain the same process. In addition, there was slight confusion in whether LSC funds could be used for domestic violence cases.²⁰

This inconsistency was discussed with RILS’ upper management and RILS indicated that mandatory staff training would be provided regarding Program Letter 06-2 VAWA, and its proper application. Both the Executive Director and the Deputy Director indicated that staff in the Providence office would be trained as to the contents of Program Letter 06-2 and that the Manual would be corrected to accurately reflect Program Letter 06-2.

6. Outreach:

Interviews at both offices indicated that outreach occurs only at the Providence office. According to the interview conducted with the Director of Training and Supervision, RILS’ outreach is comprised of only providing legal information. The Director of Training and Supervision also advised that in a situation where an outreach participant requires legal advice or legal assistance, staff is trained to instruct the individual to contact RILS directly in order to go through the intake screening process.

²⁰ See Manual § 8.2.

B. Recommendations/Required Corrective Actions in regards to RILS' intake screening protocol

The interviews with the Executive Director, the Deputy Director, the Director Supervision and Training, Managing Attorneys, staff attorneys, and support staff, and on-site demonstrations of the ACMS all indicate overall compliance regarding intake screening. Staff interviewed demonstrated understanding regarding RILS' financial eligibility guidelines related to the FPG thresholds, as well as, knowledge regarding citizenship screening. Prior to the Draft Report being issued, RILS indicated and confirmed that staff in the Providence office would be provided training regarding Program Letter 06-2 applying VAWA, and its proper application during intake screening, and that the Manual would be corrected to accurately reflect the contents of Program Letter 06-2.

In accordance with the above Recommendations, RILS, in its comments to the Draft Report, indicated that a series of mandatory staff trainings were conducted on September 20, 2012, September 26, 2016, and October 1, 2012. In addition, RILS further indicated, that its Practice and Procedure Manual was revised to accurately reflect the contents of Program Letter 06-2.

Finding 3: Sampled cases evidenced that RILS maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines (FPG). RILS' revised income eligibility policy requires certain revisions in order to be compliant with 45 CFR Part 1611.

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.²¹ *See* 45 CFR § 1611.3(c)(1) and CSR Handbook (2008 Ed., as amended 2011), § 5.3. For each case reported to LSC, Recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.2.

In those instances in which the applicant's household income before taxes is in excess of 125% but no more than 200% of the applicable Federal Poverty Guidelines (FPG) and the Recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5(a)(3) and 45 CFR § 1611.5(a)(4), the Recipient shall keep such records as may be necessary to inform LSC of the specific facts and factors relied on to make such a determination. *See* 45 CFR § 1611.5(b) and CSR Handbook (2008 Ed., as amended 2011), § 5.3.

For CSR purposes, individuals financially ineligible for assistance under the LSC Act may not be regarded as Recipient's "clients" and any assistance provided should not be reported to LSC. In

²¹ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

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.

The sampled cases indicated that RILS maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceed 125% of the poverty guidelines. Cases reviewed demonstrated compliance with 45 CFR § 1611.4 and CSR Handbook (2008 Ed., as amended 2011), § 5.3.

In advance of the on-site review, RILS provided a copy of its financial eligibility policy. The policy was reviewed to determine its compliance with 45 CFR Part 1611.²² Overall, RILS' financial eligibility policy complies with the intent and purpose of 45 CFR Part 1611 in that sampled cases demonstrated that only financially eligible persons were provided legal assistance with LSC funds. For clients whose income exceeds 125% of the poverty guidelines, RILS applies a "spend-down" that deducts allowable expenses, like child care and medical bills, from his/her income. However, slight revisions to the policy were needed in order to ensure full compliance with 45 CFR Part 1611. For example, RILS' financial eligibility policy did not explicitly state that only applicants determined to be financially eligible under its policy would be considered for LSC funded service as required by 45 CFR § 1611.3(b). In addition, the policy did not specify that in assessing the financial eligibility of an individual known to be a victim of domestic violence, RILS would only consider the income and assets of the applicant and would not consider any assets jointly held with the abuser as required by 45 CFR § 1611.3(e).

RILS' policy also outlined the analysis that should be used when determining group eligibility during the intake screening process. The portion of the policy needed to be revised so that it conformed to the analysis delineated in 45 CFR § 1611.6. Pursuant to 45 CFR § 1611.6, verifying group eligibility is a two-step process. First, there must be an affirmative determination that the group lacks and has no practical means of obtaining funds to retain private counsel. Then, RILS must conclude either the group is primarily composed of individuals who would be financially eligible for LSC funded legal assistance *or* the group has as a principal activity the delivery of services to those persons in the community who would be financially eligible for LSC funded legal assistance and the legal sought relates to such activity. *See* 45 CFR § 1611.6(a) (2) The analysis in RILS' policy did not conform to 45 CFR § 1611.6 because it lacked the first step; the affirmative determination that the group lacks and has no practical means of obtaining funds to retain private counsel.

Finally, RILS has opted to determine that an applicant is financially eligible without making an independent determination of income or assets if the applicant's income is solely derived from a governmental program for low-income individuals. However, RILS' governing body must, first, as an initial step, make a determination that the income standards of the governmental program

²² A copy of the policy was also forwarded to the Office of Legal Affairs for additional review and comment.

are at or below 125% of the FPG amounts and that the governmental program has eligibility standards which include an assets test. *See* 45 CFR § 1611.4(c).²³

Recommendations/Required Corrective Actions

Prior to the Draft Report being issued, RILS indicated that, pursuant to 45 CFR § 1611.4(c), it would provide documentation indicating that its Board has made a determination that the income standards of the governmental program are at or below 125% of the FPG amounts and that the governmental program has eligibility standards which include an assets test. RILS was advised that this documentation should be submitted with its comments to the Draft Report. RILS, in its comments to the Draft Report, indicated that it is in the process of revising its income eligibility policy to comply with 45 CFR § 1611.4(c). RILS further indicated that it would forward the revised policy to OCE for review prior to submitting it to its Board for approval.

While the review team was on-site, the above noted policy issues were also discussed with the Executive Director and the Deputy Director and RILS indicated that the policy would be revised to conform with 45 CFR Part 1611. Subsequent to the on-site review, RILS submitted a revised version of its financial eligibility policy.²⁴ The revised policy was reviewed by OCE and the Office of Legal Affairs (OLA) and it was determined that additional revisions were required.²⁵ The Draft Report directed RILS to submit a revised version of its policy, incorporating the required revisions with its comments to the Draft Report prior to submitting it to its Board for approval.²⁶ RILS, in its comments to the Draft Report, indicated that it is in the process of revising its income eligibility policy. RILS further indicated that it would forward the revised policy to OCE for review prior to submitting it to its Board for approval.

Based on RILS' comments to the Draft Report, this required corrective action will remain open pending receipt of additional information from RILS.

The Draft Report recommended that RILS indicate, in its comments, that the following actions have occurred and, where appropriate, provide documentation evidencing same or provide a date certain as to when the following actions will occur:

1. RILS indicated that it would revise its ACMS and the Manual to the extent required, to mirror the revisions made in its financial eligibility policy; and
2. On-site discussions with RILS indicated that staff would be provided with training on the policy revisions and its effect on the intake screening process.

²³ *See also* Federal Register, Vol. 70 No. 151 stating that "... the Recipient's governing body has to take some identifiable action to recognize the asset [income] test of the governmental program being relied upon."

²⁴ On June 28, 2012, RILS submitted a revised financial eligibility policy to OCE for review via email.

²⁵ RILS was notified as to the specific revisions via email dated August 29, 2012.

²⁶ This required corrective action was inadvertently omitted from Part V of the Draft Report. However, previous communications with RILS regarding this matter, as well as its comments to the Draft Report, indicate that RILS understands that it should submit a revised policy, including previously discussed revisions, to OCE for review prior to obtaining Board approval.

In accordance with the above referenced Recommendations, RILS, in its comments to the Draft Report, indicated that individualized staff training regarding screening for income prospects has been completed and that mandatory staff compliance became effective as of June 18, 2012. RILS further indicated that its Case Management System was modified to include this inquiry.

Finding 4: Sampled cases evidenced that RILS maintains the asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. Additionally, RILS’ asset eligibility policy requires certain revisions in order to be compliant with 45 CFR §§ 1611.3(d) and 1611.3(d)(1) and (e).

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.²⁷ *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4.

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

The revisions to 45 CFR Part 1611 changed the language regarding assets from requiring the recipient’s governing body to establish, “specific and reasonable asset ceilings, including both liquid and non-liquid assets,” to “reasonable asset ceilings for individuals and households.” *See* 45 CFR § 1611.6 in prior version of the regulation and 45 CFR § 1611.3(d)(1) of the revised regulation. Both versions allow the policy to provide for authority to waive the asset ceilings in unusual or meritorious circumstances. The older version of the regulation allowed such a waiver only at the discretion of the 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.

All sample case files reviewed contained the required documentation to comply with LSC’s income and asset eligibility requirements.

A review of the asset policy provided by RILS in advance of the on-site visit noted two (2) issues. First, the policy continued to make distinction between “liquid” assets and “non-liquid” assets. However, this distinction is superfluous, as an asset is defined as “cash or other resources that are readily convertible to cash, which are currently and actually available to the applicant.”²⁸ Therefore, the term “assets” by definition includes liquid and non-liquid assets.²⁹ Pursuant to on-site discussions with the Executive Director and the Deputy Director, RILS indicated that this distinction would be removed from the revised policy.

²⁷ A numerical total value must be recorded, even if it is zero or below the recipient’s guidelines. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4.

²⁸ *See* 45 CFR § 1611.2(d).

²⁹ *See* Federal Register, Vol. 70, No. 151, page 45547.

Secondly, while Recipients, pursuant to 45 CFR § 1611.3(d)(1), may exclude from consideration certain categories of assets, Recipients may not include additional categories of assets. The allowable excludable assets are:

1. A principal residence;
2. Vehicles used for transportation;
3. Assets used in producing income; and
4. Other assets which are exempt from attachment under State and Federal law.

See 45 CFR § 1611.3(d)(1).

RILS' asset policy excluded the following items from consideration:

1. Equity in a person's principal residence;
2. A person's car;
3. Personal and household effects;
4. Trusts from household funds for education and medical expenses;
5. Value of farmland essential to employment or self-employment;
6. Work-related equipment, vehicles or other property essential to employment of self-employment; Cash value of IRA or Keogh Plan;
7. Assets excluded under Food Stamp; TANF, GPA, Medical and SSI Program;³⁰ and
8. Income producing property.

RILS' asset policy excluded from consideration allowable assets as listed in 45 CFR § 1611.3(d)(1), but, as seen above, it then also excluded items that are not assets as defined by 45 CFR § 1611.2(d) or items cannot be excluded from consideration because they are not listed in 45 CFR § 1611.3(d)(1). For example, (item nos. 1, 2, 5, part of 6, and 8) equity in a person's principal residence, a person's car, value of farmland essential to employment or self-employment, work-related equipment, vehicles or other property essential to employment of [or] self-employment and income producing property are allowable excludable assets as listed in 45 CFR § 1611.3(d)(1). However, (items no. 4 and portion of 6) trusts from household funds for education and medical expenses and the cash value of an IRA or Keogh Plan are not assets as defined by 45 CFR § 1611.2(d). An IRA and a Keogh Plan are types of tax exempt investments that are not assets for the purposes of 45 CFR Part 1611 because they are not readily convertible to cash and they are not currently and actually available to the applicant.³¹ As such, while on-site, RILS was advised to revise the list of excludable assets to conform with 45 CFR § 1611.3(d)(1).

Additionally, in reference to excluding personal and household effects (item no. 3), RILS was advised that if an item was deemed excludable pursuant to it being exempt from attachment per a State and/or Federal law, the policy should reflect the specific assets that are exempt, along with a recitation of whether State and/or Federal law authorizes the exemption. This issue was

³⁰ Please refer to policy review discussion regarding 45 CFR § 1611.4(c) (Finding no. 3) for correct procedure when considering an applicant's financial eligibility without making an independent assessment of an applicant's income and assets.

³¹ *See* 45 CFR § 1611.2 (d).

discussed with the Executive Director and the Deputy Director and RILS agreed to make the revisions to include a citation to the specific State and/or Federal law that exempts the additional listed assets.

Finally, as noted in Finding No. 2 above, the policy did not contain a provision exempting assets belonging to a perpetrator of domestic violence, when the applicant was the victim of domestic violence, pursuant to 45 CFR § 1611.3(e).

Recommendations/Required Corrective Actions

Pursuant to on-site discussions, RILS agreed to make all revisions. Subsequent to the on-site review, RILS provided a revised version of its asset policy.³² The revised asset eligibility policy was reviewed by OCE and OLA and it was determined that certain revisions were needed in order for RILS' asset policy to be compliant with 45 CFR Part 1611.³³ The Draft Report directed RILS to submit the revised asset policy, incorporating the required revisions with its comments to the Draft Report for review to OCE prior to submitting it to its Board for approval.³⁴ RILS, in its comments to the Draft Report, indicated that it is in the process of revising its income eligibility policy and that it would forward the revised policy to OCE for review prior to submitting it to its Board.

Based on RILS' comments to the Draft Report, this required corrective action will remain open pending receipt of additional information from RILS.

As noted in Finding No. 3 above, RILS agreed to provide staff with training in order to ensure familiarity and understanding of RILS' asset exclusions for intake screening purposes, the types of allowable excludable assets, as well as, proper application of 45 CFR § 1611.3(e). In addition, it is recommended that RILS, where appropriate, ensure the ACMS and the Manual are updated to accurately reflect the policy revisions. In its comments to the Draft Report, RILS accepted these recommendations and further indicated that it is in the process of implementing same.

Finding 5: Sampled cases evidenced compliance with 45 CFR § 1626.6(a) (Restrictions on legal assistance to aliens). RILS' policy requires certain revisions in order to be compliant with 45 CFR Part 1626.

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.

³² On June 28, 2012, RILS submitted a revised asset policy to OCE for review via email.

³³ RILS was advised of the specific required revisions via email on August 29, 2012.

³⁴ This required corrective action was inadvertently omitted from Part V of the Draft Report. However, previous communications with RILS regarding this matter, as well as its comments to the Draft Report, indicate that RILS understands it should submit a revised policy, including previously discussed revisions, to OCE for review prior to obtaining Board approval.

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.³⁵ 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 victim of sexual assault or trafficking, or who qualify for a "U" visa. LSC Recipients are now allowed to include these cases in their CSRs.

Sampled cases evidenced compliance with 45 CFR § 1626.6(a) (Restrictions on legal assistance to aliens) in that case review evidenced appropriate and necessary documentation consistent with the requirements of 45 CFR Part 1626 during intake screening. However, case review in the Newport office found that a limited number of case files did not contain a current executed citizenship attestation in the file, but in each instance, the intermediary indicated an executed attestation could be found in a previous case file for the same client. *See e.g.* case nos. 12-B2-99000028, 11-B2-03000204, and 11-B2-03000145. While case review did not indicate that this was a pattern or customary practice, it is important to note, that in instances where there is a repeat client, and RILS wants to rely on a previous citizenship attestation from a prior case, then RILS is required, where there has been substantial time lapse between the two (2) cases to, notate that citizenship status has been verbally re-verified. *See* Frequently Asked Questions, (September 2010) § 5.5, Question No. 5. Naturally, where there has been no substantial time lapse, RILS may opt to forgo the above described practice. While on-site, this issue was briefly discussed with the Executive Director and the Deputy Director as case review did not indicate this was a major area of concern.

RILS' citizenship/alien eligibility policy is a part of its Manual and was reviewed during the on-site visit. The policy complies with the requirements of 45 CFR Part 1626 in that it explains that every applicant must undergo citizenship screening as part of the intake screening process. It requires the screener, whenever there is in-person contact with an applicant, to obtain a written attestation, in a compliant format, that the applicant is a citizen of the United States. *See* 45 CFR § 1626.6(a) If the applicant is not a citizen of the United States and there will be extended legal service provided, the screener is directed to request appropriate documentation evidencing the applicant's eligibility. *See* 45 CFR § 1626.7(a). In order to aid the screener, RILS employs an

³⁵ *See* Kennedy Amendment at 45 CFR § 1626.4.

“Eligibility for Representation Form.”³⁶ This form appears to be a copy of the appendix to 45 CFR Part 1626 with two (2) exceptions.

First, the form lacks the ‘lawful permanent resident’ category, however, this appears to be intentional as RILS’ policy contains instructions as to the appropriate documentation and screening procedures for this “alien” category. The second exception concerns the third “alien” category; an unmarried child under 21 of a United States citizen. According to the appendix to 45 CFR Part 1626, this category consists of two (2) elements: (1) that the applicant is an unmarried child under 21 of a United States citizen and (2) that he/she has filed to adjust his/her status to permanent residency. RILS’ “Eligibility for Representation Form” does not contain the second element. RILS should revise the form to include the second element as it is a necessary portion in determining “alien” status.

In addition, the section of the policy, § 8.2, referencing legal assistance to victims of domestic violence incorrectly implies that LSC funding cannot be used to provide legal assistance to an applicant whose status in the United States does not fall into any of the descriptions provided in 45 CFR Part 1626. This issue was discussed with the Executive Director and the Deputy Director with Program Letter 06-2 used as a point of reference.³⁷ Both the Executive Director and the Deputy Director indicated that staff would be trained as to the contents of Program Letter 06-2 and that Manual would be corrected to accurately reflect Program Letter 06-2.

Recommendations/Required Corrective Actions

RILS’ citizenship/alien eligibility policy conforms to 45 CFR Part 1626 in that it directs staff to perform some type of citizenship screening or obtain verification of “alien” eligibility. However, as discussed above, a slight correction is needed to its “Eligibility for Representation Form” to include the second required element for an unmarried child under 21 years of age whose parent is a United States citizen as outlined in the appendix to 45 CFR Part 1626. In addition, it was recommended RILS revise § 8.2 of the Manual referencing legal assistance to victims of domestic violence so that it complies with Program Letter 06-2. While the team was on-site, RILS indicated that it would provide staff with training regarding Program Letter 06-2 and its proper application during the screening process.

The Draft Report directed RILS to indicate, in its comments to the Draft Report, that its “Eligibility for Representation Form” has been revised to include the second required element for an unmarried child under 21 years of age whose parent is a United States citizen or provide a date certain as to when the form will be revised. RILS, in its comments to the Draft Report, indicated that the form has been revised to accurately reflect all of the required elements from the appendix to 45 CFR Part 1626 for an unmarried child under 21 years of age. However, a copy of the revised form was not included with RILS’ comments.

Based on RILS’ comments to the Draft Report, this required corrective action will remain open pending receipt of the revised form.

³⁶ This form was reviewed after the on-site review and is briefly discussed in Finding No. 2.

³⁷ This Program Letter expressly gives grantees the option of using LSC funds to provide legal assistance to any victim covered by the Violence Against Women Act 2006.

RILS also indicated that it would provide staff with training regarding Program Letter 06-2 and its proper application during the screening process. As such RILS was advised that, as part of its comments to the Draft Report, it should also indicate when the training occurred or will occur, and also include any training materials provided to staff prior to the release of the Draft Report. RILS was further advised that it may also revise § 8.2 of the Manual referencing legal assistance to victims of domestic violence so that it complies with Program Letter 06-2. The Draft Report advised RILS to include documentation evidencing same, with its comments to the Draft Report, if desired.

In its comments to the Draft Report, RILS accepted both recommendations and further indicated that it is in the process of implementing same.

Finding 6: Sampled cases evidenced compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).

Pursuant to 45 CFR § 1611.9, Recipients are required to execute a retainer agreement with each client who receives extended legal services from the recipient. The retainer agreement must be in 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.³⁸ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

Sampled cases evidenced compliance with the retainer requirements of 45 CFR § 1611.9.

There are no recommendations or required corrective actions.

RILS did not offer any comments regarding Finding No. 6 in its response to the Draft Report.

Finding 7: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts). Additionally, RILS' policy evidenced compliance with 45 CFR Part 1636.

LSC regulations require that Recipients identify by name each plaintiff it represents in any complaint it files, or in a separate notice provided to the defendant, and identify each plaintiff it represents to prospective defendants in pre-litigation settlement negotiations. In addition, the regulations require that Recipients prepare a dated, written statement signed by each plaintiff it

³⁸ 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.

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).

Sampled case files reviewed indicate that RILS is in compliance with the requirements of 45 CFR Part 1636.

The policy reviewed while on-site complies with 45 CFR Part 1636 in that it explains that a complaint may not be filed in court of law on behalf of a RILS' client unless there is a written dated statement from each plaintiff-client outlining the facts supporting the complaint. However, it is recommended that RILS revise the policy to include a clear statement that 45 CFR Part 1636 does not apply when representation is through a volunteer or *pro-bono* private attorney. *See* 45 CFR § 1636.4

Recommendation

In order to eliminate any confusion or uncertainty, the Draft Report recommended that RILS slightly revise its policy to reflect that a statement of fact does not apply when representation is through a volunteer or *pro-bono* private attorney. *See* 45 CFR § 1636.4. RILS may submit the revised policy for review to OCE prior to submitting it to its Board for approval.

In its comments to the Draft Report, RILS accepted this recommendation and further indicated that it is in the process of implementing same.

Finding 8: Sampled cases evidenced compliance with the requirements of 45 CFR § 1620.3 and § 1620.6(c) (Priorities in use of resources).

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

None of the sampled files reviewed revealed cases that were outside of RILS' priorities.

Prior to the on-site visit, RILS provided a list of its priorities. RILS identifies the following types of cases as within its priorities: housing, elderly/health, public benefits, consumer, education, family law, employment law, and tax issues. As noted above, sampled case files reviewed evidenced that RILS is in compliance with 45 CFR Part 1620.

There are no recommendations or required corrective actions.

RILS did not offer any comments regarding Finding No. 8 in its response to the Draft Report.

Finding 9: Sampled cases evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).

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

If the applicant’s legal problem is outside the recipient’s priorities, or if the Recipient has not provided any type of legal assistance, it should not report the activity in its CSR. For example, Recipients may not report the mere referral of an eligible client as a case when the referral is the only form of assistance that the applicant receives from the recipient. *See* CSR Handbook (2008 Ed., as amended 2011), § 7.2.

Recipients are instructed to record client *and* case information, either through notations on an intake sheet or other hard-copy document in a case file, or through electronic entries in an ACMS database, or through other appropriate means. For each case reported to LSC such information shall, at a minimum, describe, *inter alia*, the level of service provided. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.6.

Sampled case files reviewed indicated that RILS is in compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.6.

There are no recommendations or required corrective actions.

RILS did not offer any comments regarding Finding No. 9 in its response to the Draft Report.

Finding 10: With three (3) minor exceptions, sampled cases evidenced that RILS’ application of the CSR case closure and problem code categories is consistent with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011).

The CSR Handbook defines the categories of case service and provides guidance to Recipients on the use of the closing codes in particular situations. Recipients are instructed to report each case according to the type of case service that best reflects the level of legal assistance provided. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.1.

Closing code “K,” other and de-selection code “X”

With limited exceptions, case files reviewed demonstrate proper application of closing code “K,” other. *See e.g.* case no. 09-M1-01004664. This case was opened July 24, 2009 and closed on May 27, 2010 and assigned closing code “K,” other. According to the case notes, the client

needed a determination as to if his/her retirement pension in Germany would result in an overpayment and windfall elimination. This was a highly complicated matter which involved numerous written communications to Social Security Administration and to the client. At some point, the client was advised to contact a U.S. Senator regarding this issue. Based on the case notes, the intermediary correctly indicated this case should have been assigned closing code “L,” extensive service as the case notes outline a high level of factual complexity and sophisticated legal analysis.

In the next two (2) instances, it appears the use of closing code “K” was an attempt at de-selection as the ACMS indicates that the files were marked for de-selection from the CSR and were classified as “non-reportable.” *See* case nos. 07-B2-02000078 and 11-B2-03000135 both case files were closed in 2012. RILS has dedicated an “X” code to be used for de-selection purposes. It is recommended that RILS reinforce to staff the proper application of closing code “K,” other versus the de-selection code “X.”

Problem code “99,” other

With one (1) exception, the files reviewed demonstrated RILS’ application of the CSR problem code categories is consistent with Chapter IX, CSR Handbook (2008 Ed., as amended 2011). *See* case no. 10-M1-04002923. This case was opened May 25, 2010 and closed on July 12, 2010 and assigned problem code “99,” other. According to the case notes, the client felt that his/her constitutional rights had been violated after the police entered the client’s apartment and transported the client to the hospital with a bruised wrist. The client refused treatment, but was given a hospital bill for \$1,000.00. As a result of legal actions taken by the staff attorney on behalf of the client, the client was advised to disregard the hospital bill. Also the staff attorney, at the client’s direction served as a witness to the apology provided by the local authorities. Based on the case notes, the intermediary correctly indicated this case should have been assigned problem code “89,” other individual rights.

Recommendation

While the closing code errors and the problem code error evidenced in the sample reviewed, clearly do not rise to a level to indicate a consistent pattern, the Draft Report recommended that RILS review with staff proper application of closing code “K,” other, versus the de-selection code “X”, and review proper application of the CSR problem code category, “89,” other individual rights, and problem code category “99,” other.

In its comments to the Draft Report, RILS accepted this recommendation and further indicated that it is in the process of implementing same.

Finding 11: With one (1) exception, sampled cases evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (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, limited action, or a referred after legal assessment (CSR Categories, A, B, and C), should be reported as having been closed in the year in which the counsel and advice, limited action, or referral was provided. There is, however, an exception for cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a). All other cases (CSR Categories D through K, 2001 CSR Handbook and F through L, 2008 CSR Handbook) should be reported as having been closed in the year in which the Recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (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).

With one (1) exception, sampled cases evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (dormancy and untimely closure of cases). *See e.g.* case no. 08-M1-02007117. This case was opened December 18, 2008 and closed March 22, 2010 and assigned closing code “A,” advice and counsel. According to the case notes, on December 18, 2008, the client was advised to contact code enforcement regarding water shut-off by the landlord. No additional legal service was noted in the file after this date. The intermediary indicated this case should have been closed at the latest December 30, 2009 or the file should have included a notation explaining why it was being kept open beyond December 30, 2009. Therefore, this case should not have been reported to LSC. *See also* case no. 06-B2-02000086. This case was opened February 28, 2006 and closed February 24, 2010. The underlying action became moot when the client obtained housing, but according to the intermediary, the file remained open for a period of time to ensure that all of the surrounding legal issues had been sufficiently addressed. However, this file, due to its age, should have evidenced more periodic review to ensure and document its continued active status. So while this case was not dormant, the file should have contained continuous notations supporting its open status.

Recommendation

Interviews with the Deputy Director, the Director of Training and Supervision, and a Managing Attorney, confirm that RILS periodically reviews all open case files for inactivity. While the cases sampled did not reflect a pattern of inactivity, the Draft Report recommended that RILS provide staff a cursory briefing as to how case files that are open for an extended length of time should be documented in order to substantiate active status.

In its comments to the Draft Report, RILS accepted this recommendation and further indicated that it is in the process of implementing same.

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

Through the use of automated case management systems and procedures, Recipients are required to ensure that cases involving the same client and specific legal problem are not recorded and reported to LSC more than once. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.2.

When a Recipient provides more than one 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.

RILS is in compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.2 regarding duplicate cases as there were no duplicate case files noted in the review sample.

There are no recommendations or required corrective actions.

RILS did not offer any comments regarding Finding No. 12 in its response to the Draft Report.

Finding 13: The on-site review indicated that RILS is in compliance with determination of compliance with 45 CFR Part 1604 (Outside practice of law). Additionally, RILS' revised policy was reviewed and found to be compliant.

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

Based on interviews with the Executive Director, the Deputy Director, the Director of Training and Supervision, two (2) Managing Attorneys, and staff interviews, as well as interviews with all of available attorneys on the list provided by RILS of those who have engaged in outside practice of law, RILS is in compliance with the requirements of 45 CFR Part 1604.

RILS' policy was reviewed during the course of the on-site visit for compliance with 45 CFR Part 1604. Based on this review, RILS was advised that the policy needed to be revised to

incorporate language defining outside practice as specified in 45 CFR § 1604.2(b), language reflecting permissible outside practice as permitted by 45 CFR § 1604.4, and how, pursuant to 45 CFR § 1604.6, resources are to be used when a staff member engages in permissible outside practice of law. Subsequent to the on-site review, RILS drafted and provided the revised version of its policy incorporating all of the required language and elements.³⁹ The revised policy was reviewed and is compliant with the requirements of 45 CFR Part 1604.

There are no recommendations or required corrective actions, however, the Draft Report advised RILS that the revised policy should be submitted to its Board for approval.

RILS did not offer any comments regarding Finding No. 13 in its response to the Draft Report.

Finding 14: Review of fiscal records, sampled cases, and publications in conjunction with other available materials, along with interviews with selected staff evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

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

Sampled cases reviewed at the Newport and Providence office by the members of the review team showed no evidence of any prohibited activities under 45 CFR Part 1608.

The review of RILS' vendor list, timekeeping records, and the limited hard copy general ledger made available for the review period, while on-site by both members of the fiscal team, as well as interviews with RILS' Executive Director and the Finance Officer for the review period evidenced no activities raising any compliance issues with the requirements of 45 CFR Part 1608.

Interviews with the Executive Director, the Deputy Director, the Director of Training and Supervision, two (2) Managing Attorneys, two (2) staff attorneys, and support staff indicate that staff is not aware or does not have any knowledge of any RILS' employee participating in or involved with any activities which would constitute a violation of 45 CFR Part 1608.

Physical materials created by RILS or third parties, *e.g.*, pamphlets, brochures, flyers, and made available to the public in both offices were collected and reviewed. Several publications produced by RILS or other non-profit or government organizations, as made available to the public at RILS' offices were obtained at both RILS' offices. There was variation in the materials publically available at the two (2) offices. Duplicative materials were not collected. Further, several materials were reviewed on-site and copies were not collected. All materials made available by RILS evidenced no content that raise any concerns or questions with 45 CFR Part 1608.

³⁹ On June 28, 2012, RILS submitted the revised policy to OCE for review via email.

In addition, generalized web searches on standard search engines for “RILS” and the names of senior management produced no information to indicate that RILS has been involved in any political activity restricted by 45 CFR Part 1608.⁴⁰ The web searches did identify several publications, trainings, and other information produced by RILS management staff. In addition, information regarding RILS and/or its senior management was also identified on state web pages as related to state funding or joint initiatives regarding legal services. Materials reviewed identified no issues that could violate 45 CFR Part 1608.

The web searches demonstrated senior RILS management’s involvement in outside training, writing, and development of other materials related to legal issues. These identified activities raised no questions or concerns regarding compliance with 45 CFR Part 1608.⁴¹

There are no recommendations or required corrective actions.

RILS did not offer any comments regarding Finding No. 14 in its response to the Draft Report.

Finding 15: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases). Additionally, the revised policy evidenced compliance with the requirements of 45 CFR Part 1609.

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

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

⁴⁰ Due to the nature of web-based searches, some generalized searches produced an extremely large number of results (one resulted in 512,000 identified “hits”). However, within about 10 pages of results, or within 50-100 records, the relevance of the records became clearly unrelated to RILS or its senior Management. For example, a search for “First Name, Last Name, and Program Name or Name of State” would eventually lead to results that only had the “First Name” and “Name of State” in common, which had nothing to do with RILS. At this point, no further results were reviewed.

⁴¹ Some activities required additional web research to understand the group, activity, or reference, with this additional inquiry identifying no political content to these items.

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).

Also, in light of recent regulatory changes, LSC has prescribed certain specific requirements for fee-generating cases. *See* Program Letters 09-3 (December 17, 2009) and 10-1 (February 18, 2010). LSC has determined that it will not take enforcement action against any recipient that filed a claim for, or collected or retained attorneys' fees during the period of December 16, 2009 through March 15, 2010. Enforcement activities related to claims for attorneys' fees filed prior to December 16, 2009, or fees collected or retained prior to December 16, 2009, are no longer suspended and any violations that are found to have occurred prior to December 16, 2009 will subject the grantee to compliance and enforcement action. Additionally, the regulatory provisions regarding accounting for and use of attorneys' fees and acceptance of reimbursement from clients remain in force, and violations of those requirements, regardless of when they have occurred, will subject the grantee to compliance and enforcement action.

None of the sampled case files reviewed involved legal assistance with respect to fee-generating cases.

Interviews with the Executive Director, the Deputy Director, and two (2) staff attorneys indicated awareness and understanding of the requirements of 45 CFR Part 1609.⁴²

RILS' policy was reviewed during the course of the on-site review. Based on this review, RILS was advised to delineate which of the circumstances outlined in 45 CFR § 1609.3 will apply to RILS' staff, and where necessary, incorporate language complying with 45 CFR § 1609.3. Subsequent to the on-site review, RILS drafted and provided the revised version of its policy.⁴³ The revised policy was reviewed and found to be compliant with the requirements of 45 CFR Part 1609, however, it is recommended RILS include a definition for "fee-generating case."

Recommendation

The Draft Report recommended that RILS include a definition for "fee-generating case" as outlined in 45 CFR § 1609.2. There are no additional recommendations, although the Draft Report also recommended that the revised fee-generating policy be submitted to its Board for approval.

RILS did not offer any comments regarding Finding No. 15 in its response to the Draft Report.⁴⁴

⁴² RILS has one (1) staff attorney hired pursuant to a two (2) year Skadden-Arps Foundation fellowship. The purpose of this fellowship is to represent claimants who are seeking unemployment benefits. State law permits an attorney to recover nominal attorney fees regardless of whether benefits are recovered for the client. 45 CFR Part 1609 is inapplicable, as LSC funds are not being used to provide the legal assistance and these are not fee-generating cases within the meaning of this regulation.

⁴³ On June 28, 2012, RILS submitted its revised policy to OCE for review via email.

⁴⁴ This recommendation was inadvertently omitted from Part IV of the Draft Report.

Finding 16: Discussions with RILS subsequent to the on-site review confirm compliance with 45 CFR § 1610.5 (Notification). No determination of compliance can be made at this time in regards to the remaining portions of 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity).

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

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

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

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

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

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

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

engages in restricted activities. *See* OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

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

On-site observations

During the course of the review, the members of the review team traveled to RILS' branch office in Newport and the main office in Providence, as well as the VLP office where RILS' PAI efforts are conducted by the State Bar. Observations raised no questions or concerns with respect to sharing physical space with a non-LSC entity engaged in restricted activities.

Non-fiscal review

Pursuant to 45 CFR § 1610.5, no Recipient may accept funds in excess of \$250.00 from any source other than the Corporation, unless the Recipient provides to the source of the funds, written notification of the prohibitions and conditions that apply to the funds. RILS accepts contributions online through its website or directly from individual contributors by check or cash. Subsequent to the on-site review, RILS verbally confirmed that it provides on-line donors and non-online donors the necessary written notification of the prohibitions and conditions applying to said funds. Review of a sample template letter confirmed that the prohibition language is on the donor notification letters. The Executive Director indicated that the actual donor notification letters sent to contributors are maintained in PDF form.⁴⁵ RILS is in compliance with 45 CFR § 1610.5 as discussions with management confirm that notification letters with the requisite language are sent to all contributors.

OCE is only able to make limited findings regarding 45 CFR Part 1610. Based on information provided by Management, RILS is in compliance with 45 CFR § 1610.5. OCE reserves the right to conduct additional fiscal review in the future to confirm RILS' compliance with the remaining provisions of 45 CFR Part 1610. There are no recommendations or required corrective actions.

RILS did not offer any comments regarding Finding No. 16 in its response to the Draft Report.

⁴⁵ This practice started May 1, 2012.

Finding 17: RILS is in compliance with 45 CFR Part 1614 which is designed to ensure that Recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. However, RILS must develop a cost allocation methodology for indirect costs that is based on reasonable operating data and develop a screening mechanism that will ensure that no financially ineligible PAI cases are reported to LSC.

a. Regulatory requirements regarding a Recipient's PAI cost allocation

LSC regulations require LSC Recipients to devote an amount of LSC and/or non-LSC funds equal to twelve and one-half percent (12.5%) of its LSC annualized basic field award for the involvement of private attorneys in the delivery of legal assistance to eligible clients. This requirement is referred to as the "PAI" or Private Attorney Involvement requirement.

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

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

b. RILS' PAI—Volunteer Lawyer Program

RILS' PAI efforts are carried out by the Volunteer Lawyer Program (VLP) of the Rhode Island Bar Association (RIBA). Pursuant to 45 CFR § 1614.3(e), RILS' audited financial statement (AFS) for fiscal year 2010, identified and accounted separately for costs related to and charged to its PAI efforts. In 2010, RILS was awarded \$1,281,752.00 as its basic field grant award. Pursuant to 45 CFR § 1614.1(a), RILS is required to devote an amount equal to at least 12.5% of the basic field award to the involvement of private attorneys. According to the 2010 AFS, RILS expended \$163,226.00 in satisfaction of its PAI requirement.⁴⁶ *See* 45 CFR § 1614.1(a)

⁴⁶ RILS actually expended 12.7% of its total Basic Field Grant award. The entire amount was charged to its IOLTA fund account.

c. RILS' PAI cost allocation methodology for the Volunteer Lawyer Program (VLP)

In addition to the 12.5% requirement noted above, a Recipient must also utilize and maintain financial systems, protocols, and supporting documentation that would allow for an accounting of all costs related to and charged to its PAI efforts. *See* 45 CFR § 1614.3(e). These costs include administrative costs, overhead, staff, and support costs. *See* 45 CFR § 1614.3(e)(1)(i) While all cost allocations charged to PAI must be clearly documented, the various types of costs are treated differently under 45 CFR Part 1614. For instance, in circumstances involving staff attorneys and paralegals providing legal assistance, costs must be documented by time sheets evidencing the actual time spent providing legal assistance on PAI activities. *See* 45 CFR § 1614.3(e)(1)(i). However, allocating costs based on time keeping records is inapplicable to work that cannot be categorized as legal assistance because, in those instances, costs allocated to PAI must be based on reasonable operating data.

Interviews with the Finance Officer evidenced that RILS applied estimates with no supporting methodology to allocate costs to its PAI fund for non-legal work done in connection with its PAI efforts. Pursuant to 45 CFR § 1614.3(e)(1)(i) a cost allocation based on reasonable operating data is the only permissible cost allocation methodology for non-legal work charged to a Recipient's PAI fund. This issue was discussed with the Executive Director and the Deputy Director and RILS indicated that it would develop and apply a cost allocation methodology based on reasonable operating data.

d. Overview of the VLP – RILS' PAI efforts

As noted earlier, RILS' PAI efforts are carried out by the Volunteer Lawyer Program (VLP) of the Rhode Island Bar Association (RIBA). According to the Public Services Director of the RIBA, the VLP was originally started by RILS and housed within the RILS offices. In 1986, RILS and RIBA entered into an agreement in which the VLP was run by RIBA and would be housed by RIBA (although the relocation from RILS to RIBA did not occur for nearly a year).

The VLP is responsible for intake, referral, oversight, and closing of the case files. The applicants generally call in, although the VLP will take walk-in applicants who appear during regular office hours. In addition, some private attorneys will contact the VLP directly with respect to persons in need of assistance which the attorney may have identified in court or through a personal appearance in the attorney's office.

Intake Screening Process: During the initial intake interview – again, primarily by telephone – the applicant is screened for income, assets, citizenship/alien eligibility, and type of case. The VLP staff is familiar with RILS' priorities and is provided regular updates on the priorities. Most of the cases referred by VLP fall in the areas of family law, consumer issues, including bankruptcy, public benefits, including social security/SSI, housing issues, and some non-profit case work. A review of sampled cases showed that all cases were within RILS' priorities.

With respect to income screening, the VLP uses a 150% of FPG threshold, instead of the 125% of FPG threshold used by LSC and RILS. Therefore, a segment of the VLP's applicants will be financially ineligible under LSC criteria, but not under non-LSC criteria. In those instances, a

split is created in that, while the VLP may provide legal assistance to those applicants, those cases may not be reported to LSC for CSR purposes.⁴⁷ In reviewing the sampled case files, it was determined that four (4) out of 19 randomly selected files fell within this 126%-150% gap. *See e.g.* closed 2010 case no. 08930⁴⁸ (client had a monthly income of \$1,600.00, and the FPG threshold was \$1,458.33) and closed 2011 case no. 10984⁴⁹ (client had a monthly income of \$3,018.00 and the FPG threshold was \$2,286.93). *See also* closed 2011 case nos. 10664⁵⁰ (client had a weekly income of \$ 458.00 and the FPG threshold was \$440.15) and 10468⁵¹ (client had a weekly income of \$384.00 and the FPG threshold was \$350.23). None of these cases contained documentation related to the exceptions outlined in 45 CFR § 1611.5.

While on-site, this issue was discussed with the Executive Director and the Deputy Director and RILS indicated that it would meet with the VLP staff in order to appropriately address the matter. Subsequent to the on-site visit, RILS notified OCE that the VLP staff now institutes financial screening practices that are consistent with RILS' revised financial eligibility policy. Specifically, if an applicant's income falls between 126% and 200% of the FPG, the VLP staff applies a "spend-down" using criteria outlined in RILS' revised policy. The VLP now apply the 125% FPG threshold to all future eligibility screenings. As to prior eligibility screenings that occurred before the new practice was instituted, RILS may opt to do the following:

- a. not apply a "spend-down" or any other qualifying factors and simply not report any of those cases to LSC; **or**
- b. where appropriate apply a "spend-down" utilizing the criteria outlined in RILS' revised financial eligibility policy or apply some other qualifying factor in accordance with its revised policy and report only those cases which meet LSC financial eligibility criteria to LSC; **and**
- c. for those cases that do not meet LSC financial eligibility criteria despite applying a "spend-down" or any other qualifying factors not report those cases to LSC.

Referral Process: Following the initial intake, the VLP mails the applicant a letter that notified the applicant that her/his case is eligible for referral to a private attorney. The applicant is required to submit a signed "Referral Authorization" prior to referral. The citizenship attestation is a part of the "Referral Authorization" and requires the applicant to affirm that he/she is a United States citizen.⁵²

⁴⁷ See CSR Handbook (2008 Ed., as amended 2011), footnote no. 3 explaining that when a program provides legal assistance to an applicant who is financially ineligible under LSC criteria, non-LSC funding must be used and that case cannot be reported to LSC for CSR purposes.

⁴⁸ The UCI for this client is "Jfer24F."

⁴⁹ The UCI for this client is "Kpol57F."

⁵⁰ The UCI for this client is "Meme24F."

⁵¹ The UCI for this client is "Wfer24m."

⁵² The citizenship attestation contained in the "Referral Authorization" conforms to the CSR Handbook (2008 Ed., as amended 2011), § 5.5 in that it requires the applicant to sign a statement verifying citizenship: "I hereby affirm that I am a United States citizen." Directly above this statement is a space for the applicant to sign his/her name certifying that the financial information provided (on the VLP's "Financial Form") is accurate and there is a space

After the VLP receives the required paperwork, the applicant is advised that his/her case has been accepted for referral and is provided the name, address, and telephone number of the attorney who will handle the case. Contemporaneously, a letter is sent to the private attorney advising that the client will be in contact in order to schedule an appointment. The letter explains the procedures required to complete the recordkeeping; also included is the “Initial Referral Disposition” worksheet, which the attorney completes after interviewing and accepting the client. At this time the attorney submits an anticipated schedule of completion of the case, which the VLP uses to establish an oversight tickler. However if, after the initial client interview, the attorney decides to reject the case, then the VLP is notified of the rejection and additional attempts are made to place the case with another attorney.

Oversight: Based on interviews with the VLP staff and a review of cases, the program has established a reasonable schedule for follow-up and developed working mechanisms for doing so. As noted above, based on the information contained on the “Initial Referral Disposition” worksheet submitted by the attorney, a tickler is set up to ensure timely oversight. In addition, VLP staff developed a system for tracking types of cases based on past precedence and experience to ensure that follow-up is conducted on a timely basis. Based on the pre-established tickler, staff contacts attorneys on a regular basis to ensure that there is continuous activity in the case. The VLP has a “Case Update” form it sends for the attorney to fill out and send back. Similarly, at the conclusion of the case, the VLP staff sends a “Final Case Disposition” form to be completed and returned. In addition, at the conclusion of the case, the program sends the client a “Client Satisfaction” survey to be completed in order to assess the effectiveness of the legal services provided.

Initially, when the pro bono attorney concludes a case, she/he selects the appropriate CSR closing code; however, interviews with the VLP staff noted that each closed case file is evaluated for correct closing code and changes are made, as necessary, in order to conform to the requirements of the CSR Handbook.

A review of sampled case files demonstrates that, in some instances, the VLP “code” with two (2) problem codes. *See* open case no. 12362⁵³ which was coded as a repossession (problem code 02) and was also coded as a bankruptcy (problem code 01) because the underlying matter was resolved by the client filing for bankruptcy. In addition, the VLP employs sub-codes which staff uses to further distinguish cases. *See* 2011 closed case no. 10984⁵⁴ coded as 99B, which indicates this was the formation of a 501(c) (3) organization.⁵⁵

Based on cases sampled, all files were timely referred, responded to, and closed with clients receiving needed assistance from private attorneys.

for the applicant to date the form. According to the “Referral Authorization” and those interviewed, an applicant will not be placed with an attorney until both the “Referral Authorization” and the “Financial Form” are returned-completed and signed to the VLP.

⁵³ The UCI for this client is “Jdev57F.”

⁵⁴ The UCI for this client is “Kpol57F.”

⁵⁵ In this particular case, a 501(c) (3) organization was not created, instead the client merged with another pre-existing 501(c) (3). This case would be better coded as 91B (problem code “91” is legal assistance to non-profit organization or group) as problem code “99,” other miscellaneous, should be reserved for cases that do not fit into of the other problem code categories.

Required Corrective Actions

The Draft Report directed RILS to indicate that the following actions have occurred and where appropriate provide documentation evidencing same or provide a date certain as to when the following actions will occur:

1. RILS must provide documentation evidencing its cost allocation methodology for non-legal work charged to its PAI fund based on reasonable operating data.

In its comments to the Draft Report, RILS indicated that 4% is a fair and reasonable allocation amount. RILS further explained that the 4% cost allocation is applicable across the board for all programs for non-legal work including the PAI fund. RILS further noted that every program would be charged its “. . . fair share of the administrative cost of operating.” However, before OCE can close this required corrective action, RILS must provide the formula used to reach the 4% cost allocation for OCE’s review and assessment. For example:

$$\text{Total PAI Cases Closed} \div \text{Total Closed Cases} = \text{Cost Allocation Percentage (i. e. 4\%)}$$

Based on RILS’ comments to the Draft Report, this required corrective action will remain open pending receipt of additional information from RILS.

2. RILS must review its open PAI files in order to ensure that in cases where the client was deemed financially eligible applying the previous 150% of the FPG threshold are not reported to LSC. To do so, RILS may elect to implement the following:
 - a. not apply a “spend-down” or any other qualifying factors and simply not report any of those cases to LSC; **or**
 - b. where appropriate apply a “spend-down” utilizing the criteria outlined in RILS’ revised financial eligibility policy or apply some other qualifying factor in accordance with its revised policy and report only those cases which meet LSC financial eligibility criteria to LSC; **and**
 - c. for those cases that do not meet LSC financial eligibility criteria despite applying a “spend-down” or any other qualifying factors not report those cases to LSC.

In its comments to the Draft Report, RILS indicated that, as of June 2012, the VLP amended its income eligibility to 125% of the FPG. RILS also indicated that it chose option “a” where it will not report to LSC any VLP case that is not income eligible.

Based upon the information provided by RILS in its comments to the Draft Report, this required corrective action has been completed and is closed.

Finding 18: A limited review of fiscal records and staff interviews evidenced that RILS is in compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization.

LSC 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.⁵⁶ Except that the definition does not include transfers related to contracts for services rendered directly to the recipient, *e.g.*, accounting services, general counsel, management consultants, computer services, etc., or contracts with private attorneys and law firms involving \$25,000 or less for the direct provision of legal assistance to eligible clients. *See* 45 CFR §§ 1627.2(b)(1) and (b)(2); *see also*, 48 Federal Register 28485 (June 2, 1983) and 48 Federal Register 54207 (November 30, 1983).

Additionally, 45 CFR § 1627.4(a) states that:

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

Pursuant to 45 CFR § 1627.4, a limited review of RILS' chart of accounts, invoices, cash disbursement journals, and bank reconciliation documents for the time period 2010 through 2012 and interviews with RILS' Finance Officer evidenced that LSC funds were not used to pay for non-mandatory membership fees or non-mandatory dues. Review of financial records, as well as interviews, evidenced that RILS had not entered into any sub-grant agreements during the review period.

There are no recommendations or required corrective actions.

RILS did not offer any comments regarding Finding No. 18 in its response to the Draft Report.

⁵⁶ 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.

Finding 19: RILS is in compliance with 45 CFR Part 1635 (Timekeeping requirements).

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

Specifically, 45 CFR § 1635.3(a) requires that all expenditures of funds for Recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must satisfy the requirements of 45 CFR Part 1630. Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity. Time records must be created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient. Each record of time spent must contain: for a case, a unique client name or case number; for matters or supporting activities, an identification of the category of action on which the time was spent.

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

45 CFR Part 1635 requires Recipients to support allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 – Cost standards and principles with accurate and contemporaneous records of the cases, matters and supporting activities for which funds have been expended, have the ability to determine the cost of specific functions, and increase information available to LSC for assuring Recipient compliance with Federal law and LSC regulations.

A sampling of time records for one (1) payroll period for six (6) randomly selected staff members was reviewed for compliance with the requirements of 45 CFR Part 1635. Pursuant to 45 CFR § 1635.3(b)(2), all timekeeping records sampled evidenced that each entry appropriately contained client's name⁵⁷ as well as a corresponding case number. Also, pursuant to 45 CFR § 1635.3(b)(2), each sampled timekeeping record entry for a matter or supporting activity contained an identification of the category of action on which time was spent. Pursuant to 45 CFR § 1635.3(c), RILS' timekeeping system is capable of sorting its open and closed cases by legal problem type as evidenced by the sorting features listed in the left hand corner of the front of each sampled time record.

There are no recommendations or required corrective actions.

⁵⁷ Redacted.

RILS did not offer any comments regarding Finding No. 19 in its response to the Draft Report.

Finding 20: Sampled cases evidenced compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

Prior to December 16, 2009, except as otherwise provided by LSC regulations, Recipients could not claim, or collect and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* former 45 CFR § 1642.3.⁵⁸ 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 23, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees. Accordingly, effective March 15, 2010 Recipients may claim, collect and retain attorneys' fees for work performed, regardless of when such work was performed.

LSC further determined that it will not take enforcement action against any recipient that filed a claim for, or collected or retained attorneys' fees during the period December 16, 2009, and March 15, 2010. Claims for, collection of, or retention of attorneys' fees prior to December 16, 2009, may, however, result in enforcement action. As well, the regulatory provisions regarding accounting for and use of attorneys' fees and acceptance of reimbursement remain in force and violation of these requirements, regardless of when they occur, may subject the recipient to compliance and enforcement action. *See* LSC Program Letters 09-3 (December 17, 2009) and 10-1 (February 18, 2010).

Based on case files reviewed and discussions with management, RILS evidenced compliance with the requirements of the former 45 CFR Part 1642.

A limited review of RILS' fiscal records and interviews with the Finance Officer, evidenced that, with the exception to the circumstance explained in footnote no. 37, there were no attorneys' fees awarded, collected, and retained for cases serviced directly by RILS that would violate former 45 CFR Part 1642.

There are no recommendations or required corrective actions.

RILS did not offer any comments regarding Finding No. 20 in its response to the Draft Report.

⁵⁸ 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).

Finding 21: Sampled cases reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). RILS' revised policy requires certain revisions in order to be compliant with 45 CFR Part 1612.

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

None of the sampled files reviewed evidenced any lobbying or other prohibited activities.

Samplings of seven (7) activities related to legislative activity and rulemaking, were reviewed to ensure there was a request from a governmental agency or an elected official. Where appropriate, RILS produced copies of each request for participation from said governmental agency or said elected official along with the written authorizations from RILS' Executive Director. Pursuant to 45 CFR § 1612.10, timekeeping records demonstrated that the reviewed activities were all funded with non-LSC funds. A review of financial records for the period of January 1, 2011 through June 30, 2011 indicated compliance with 45 CFR §§ 1612.6 and 1612.10.

RILS' policy on legislative and administrative advocacy was reviewed while on-site to determine compliance with 45 CFR Part 1612. While the policy was not technically incorrect, in discussions with RILS the review team suggested that RILS revise its policy to mirror the format used in 45 CFR Part 1612 for ease of reference. RILS agreed and subsequent to the on-site provided a revised version of its policy for review.⁵⁹ The revised policy was reviewed and RILS was notified of additional required revisions; specifically RILS' policy should be revised to comply with the language set forth in 45 CFR §§ 1612.4, 1612.5, 1612.8 and 1612.9.⁶⁰

Required Corrective Action

RILS was directed as part of its comments to the Draft Report, to submit the revised policy for review to OCE prior to submitting it to its Board for approval.

RILS did not offer any comments regarding Finding No. 21 in its response to the Draft Report.⁶¹

As RILS did not provide the revised policy with its comments, this required corrective action will remain open until RILS submits a compliant policy to OCE.

⁵⁹ On June 28, 2012, RILS submitted, via email, its revised policy to OCE for review.

⁶⁰ In an email dated July 19, 2012, RILS was specifically advised as to the required revisions.

⁶¹ This required corrective action was inadvertently omitted from Part V of the Draft Report. However, RILS was advised of required revisions by email dated July 19, 2012.

Finding 22: Sampled cases evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

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

None of the sampled files reviewed involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction. Furthermore, interviews with the Executive Director, the Deputy Director, the Director of Training and Supervision, two (2) Managing Attorneys, and two (2) staff attorneys, as well as a review of RILS' policies, all confirm that RILS is not involved in this prohibited activity.

There are no recommendations or required corrective actions.

RILS did not offer any comments regarding Finding No. 22 in its response to the Draft Report.

Finding 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions). Additionally, policies reviewed evidenced compliance with 45 CFR Part 1617.

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).⁶²

None of the sampled files reviewed involved initiation or participation in a class action. Furthermore, interviews with the Executive Director, the Deputy Director, the Director of Training and Supervision, two (2) Managing Attorneys, and two (2) staff attorneys, as well as a review of RILS' policies, all confirm that RILS is not involved in this prohibited activity.

There are no recommendations or required corrective actions.

RILS did not offer any comments regarding Finding No. 23 in its response to the Draft Report.

⁶²It 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).

Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting). Additionally, RILS' policy is compliant with 45 CFR Part 1632.

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

None of the sampled files reviewed revealed participation in litigation related to redistricting.

RILS' policy was reviewed while on-site in order to determine compliance with 45 CFR Part 1632. As a result of this review, it was recommended that the policy be revised to include certain language used in 45 CFR § 1632.3(a). RILS indicated that a revised policy incorporating the language used in 45 CFR § 1632.3(a) would be forwarded for review subsequent to the on-site visit.

Recommendation

The Draft Report recommended that RILS submit the revised policy for review to OCE prior to submitting it to its Board for approval.

RILS did not offer any comments regarding Finding No. 24 in its response to the Draft Report.⁶³

Finding 25: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings). Additionally, the revised policy evidenced compliance with 45 CFR Part 1633.

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

None of the sampled files reviewed involved defense of any such eviction proceeding. Furthermore, interviews with the Executive Director, the Deputy Director, and the Director of Training and Supervision all confirm that RILS is not involved in this prohibited activity.

RILS' policy was reviewed while on-site in order to determine compliance with 45 CFR Part 1633. As a result of this review, the Executive Director and the Deputy Director were advised that the policy should be revised to include the language or similar language set forth in 45 CFR § 1633.3(a). Subsequent to the review visit, the revised policy was reviewed by OCE and found to be compliant.⁶⁴

⁶³ This recommendation was inadvertently omitted from Part IV of the Draft Report.

⁶⁴ RILS submitted the revised policy for review to OCE on June 28, 2012 via email.

There are no recommendations or required corrective actions, although the Draft Report advised RILS that the revised policy should be submitted to its Board for approval.

RILS did not offer any comments regarding Finding No. 25 in its response to the Draft Report.

Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners). The policy is compliant with 45 CFR Part 1637.

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

None of the sampled files reviewed involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person. Furthermore, interviews with the Executive Director, the Deputy Director, and the Director of Training and Supervision all confirm that RILS is not involved in this prohibited activity.

RILS' policy was reviewed while on-site for compliance with 45 CFR Part 1637. During discussions with the Executive Director and the Deputy Director, the review team recommended that the policy be revised to include a definition of pertinent terms. RILS indicated that it would provide a revised policy incorporating the changes for review.

Recommendation

The Draft Report recommended that RILS submit the revised policy for review to OCE prior to submitting it to its Board for approval.

RILS did not offer any comments regarding Finding No. 26 in its response to the Draft Report.⁶⁵

Finding 27: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation). RILS' policy requires certain revisions in order to be compliant with 45 CFR Part 1638.

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.⁶⁶ This restriction has been contained in all subsequent appropriations acts.⁶⁷ This new restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated

⁶⁵This recommendation was inadvertently omitted from Part IV of the Draft Report.

⁶⁶ *See* Section 504(a)(18).

⁶⁷ *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).

clearly and concisely in 45 CFR § 1638.1: “This part is designed to ensure that recipients and their employees do not solicit clients.”

None of the sampled files indicated program involvement in such activity. Furthermore, interviews with the Executive Director and the Deputy Director confirm that RILS is not involved in such activity.

RILS’ policy was reviewed while on-site for compliance with 45 CFR Part 1638. In discussions with the Executive Director and the Deputy Director, the review team advised RILS that the policy should be revised to incorporate all of the prohibitive actions and permissible actions listed in 45 CFR §§ 1638.3 and 1638.4. RILS indicated that it would provide a revised policy incorporating the changes for review.

Required Corrective Action

RILS was directed to provide, with its comments to the Draft Report, a revised policy incorporating the agreed upon changes to OCE for review prior to submitting it to its Board for approval.

RILS did not offer any comments regarding Finding No. 27 in its response to the Draft Report.⁶⁸

As RILS did not provide the revised policy with its comments to the Draft Report, this required action will remain open until RILS submits a compliant policy to OCE.

Finding 28: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing). Policies reviewed evidenced compliance with 45 CFR Part 1643.

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

Sampled files reviewed, interviews with the Executive Director, the Deputy Director, the Director of Training and Supervision, two (2) Managing Attorneys, two (2) staff attorneys, as well as a review of RILS’ policies, all confirm that RILS is not involved in this prohibited activity.

There are no recommendations or required corrective actions.

RILS did not offer any comments regarding Finding No. 28 in its response to the Draft Report.

⁶⁸ This required corrective action was inadvertently omitted from Part V of the Draft Report.

Finding 29: Sampled cases evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007(a)(8) (Abortion), 42 USC 2996f § 1007(a)(9) (School desegregation litigation), and 42 USC 2996f § 1007(a)(10) (Military selective service act or desertion)).

Section 1007(b)(8) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation which seeks to procure a non-therapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution. Additionally, Public Law 104-134, Section 504 provides that none of the funds appropriated to LSC may be used to provide financial assistance to any person or entity that participates in any litigation with respect to abortion.

Section 1007(b)(9) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities.

Section 1007(b)(10) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior law.

Sampled files reviewed, interviews with the Executive Director, the Deputy Director, the Director of Training and Supervision, two (2) Managing Attorneys, and two (2) staff attorneys, as well as a review of RILS' policies, further evidence that RILS has not engaged in any litigation which would be in violation of Section 1007 (b) (8) of the LSC Act, Section 1007(b)(9) of the LSC Act, or Section 1007(b)(10) of the LSC Act.

There are no recommendations or required corrective actions.

RILS did not offer any comments regarding Finding No. 29 in its response to the Draft Report.

Finding 30: RILS is in compliance with the requirements of 45 CFR § 1620.6, which requires staff who handle cases or matters or make case acceptance decisions, sign written agreements indicating they have read and are familiar with the recipient’s priorities, have read and are familiar with the definition of an emergency situation and procedures for dealing with an emergency, and will not undertake any case or matter for the Recipient that is not a priority or an emergency.

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

- a. Has read and is familiar with the priorities of the recipient;
- b. Has read and is familiar with the definition of an emergency situation and the procedures for dealing with an emergency that have been adopted by the recipient; and
- c. Will not undertake any case or matter for the recipient that is not a priority or an emergency.

Interviews with the Executive Director and the Deputy Director, as well as a review of a sample agreement, evidenced that RILS is in compliance with the requirements of 45 CFR § 1620.6, which requires staff who handle cases or matters, or make case acceptance decisions, to 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.⁶⁹

There are no recommendations or required corrective actions.

RILS did not offer any comments regarding Finding No. 30 in its response to the Draft Report.

Finding 31: Policies reviewed evidenced compliance with the requirements of 45 CFR Part 1644 (Disclosure of case information).

In accordance with 45 CFR Part 1644, Recipients are directed to disclose to LSC and the public certain information on cases filed in court by their attorneys. 45 CFR § 1644.3 requires that the following information be disclosed for all actions filed on behalf of plaintiffs or petitioners who are clients of the recipient:

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

⁶⁹ This was confirmed subsequent to the on-site review.

- b. the cause of action;
- c. the name and full address of the court where the case is filed; and
- d. the case number assigned to the case by the court.

RILS' policy on case disclosure was reviewed subsequent to the on-site visit and is in compliance with the requirements of 45 CFR Part 1644.

There are no recommendations or required corrective actions.

RILS did not offer any comments regarding Finding No. 31 in its response to the Draft Report.

Finding 32: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1639 (Restrictions on welfare reform). RILS' policy requires certain revisions in order to be compliant with 45 CFR Part 1639.

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. 45 CFR § 1639.6 requires Recipients to adopt written policies and procedures to guide its staff in complying with 45 CFR Part 1639.

RILS' policy on welfare reform was reviewed while on-site for compliance with 45 CFR Part 1639. In discussions with the Executive Director and the Deputy Director, the review team advised RILS that the policy should be revised to incorporate language describing all of the prohibitions outlined in 45 CFR § 1639.3. RILS indicated that the policy would be revised to meet the requirements of 45 CFR Part 1639.

Required Corrective Action

RILS was directed, as part of its comments to the Draft Report, to submit a revised policy for review to OCE prior to submitting it to its Board for approval.

RILS did not offer any comments regarding Finding No. 32 in its response to the Draft Report.⁷⁰

As RILS did not provide the revised policy with its comments, this required corrective action will remain open until RILS submits a compliant policy to OCE.

⁷⁰ This required corrective action was inadvertently omitted from Part V of the Draft Report.

Finding 33: A testing of sampled internal control protocols noted no deficiencies in bank reconciliation, cash receipt, and cash disbursement procedures.

Internal controls are the protocols established by an entity's governing body that when appropriately and consistently applied provide reasonable assurances regarding:

1. Effectiveness and efficiency of operations;
2. Reliability of financial reporting; and
3. Compliance with applicable laws and regulations.

See Accounting Guide for LSC Recipients (AGLR) (2010 Ed.) 1-1—Definitions

A limited assessment of RILS' internal control systems included a review of LSC's "Internal Control Worksheet" (as prepared by RILS), RILS' organizational chart, and RILS' accounting manual and interviews with selected staff. It appears that RILS has proper segregation of duties based on a review of its organizational chart and each employee's job duties as outlined in RILS' accounting manual. An assessment of the "Internal Control Worksheet" further evidenced that RILS has proper segregation of duties as it relates to cash receipts, bank reconciliations, check disbursements, the handling of petty cash, the procurement process, payroll, client trust accounting, and the general ledger. During the course of the on-site review, three (3) of the above referenced areas were tested for proper application of the internal controls as set forth by RILS in its accounting manual and as reported in the "Internal Control Worksheet."

a. Bank reconciliations

Bank reconciliations serve to verify, at a particular point in time, that the bank balance noted in the monthly statements, provided by a financial institution, is the same balance noted in the program's own internal accounting records. Proper reconciliation procedures substantially decrease the occurrence of any irregular disbursements as the process requires the reconciler to conduct additional inquiry in order to correct any differences between the bank balance and the and the general ledger. *See AGLR (2010 Ed.) 3-5.2(d) -- Reconciliations.* LSC accounting guidelines require bank statements to be reconciled monthly to the general ledger by a person who has no access to cash, who is not a regular check signer and has no bookkeeping duties. *See Id.* The actual reconciliation should be documented in order to ensure timeliness and accuracy. *See Id.*

In addition to appropriate documentation, adequate bank reconciliation procedures will include an assessment of voided checks, an accounting for serial numbers of checks, a comparison of dates and amounts of daily deposits as shown by the cash receipts records with the bank statements, confirmation that outstanding checks have been investigated and resolved, that bank statements are delivered un-opened directly to a management official for review prior to the reconciliation and adequate review of the completed reconciliation by a fiscal officer. *See*

AGLR, Appendix VII, Accounting Procedures and Internal Control Checklist, section I – Bank reconciliation procedures.⁷¹

Policy and procedure: Bank reconciliations are carried out, jointly, by the Executive Director and a Managing Attorney with no accounting experience. Interviews and a review of RILS' accounting manual indicate that bank statements are reviewed by the Executive Director and, once reviewed, the statements along with any check copies are given to a Managing Attorney for reconciliation. After the Managing Attorney has completed reconciling the bank statements, a reconciliation report is printed and given to the Finance Officer for review.

Fiscal review: Sampled bank reconciliations for the following accounts were reviewed:

1. Operating account for 2011;
2. Client trust account for 2011; and
3. Investment accounts for 2011.

The on-site review of all the bank reconciliations for the operating accounts and time periods noted above indicated that each were reviewed by a management official, RILS' Executive Director. However, it is unclear if the bank statements were reviewed by the Executive Director prior to preparation of the reconciliation reports as the statements were initialed, but not dated. The reconciliation reports were timely prepared by a Managing Attorney. This Managing Attorney was interviewed and confirmed preparation of the sampled reconciliation reports.⁷²

b. Cash receipts

Cash receipts are a permanent record of monies received; this record serves as a tool in maintaining the accuracy of the program's financial records. Initial accountability for cash received should be established as soon as a cash item is received. *See* AGLR (2010 Ed.) 3-5.4 -- Cash receipts. The mail should be opened by an individual, when possible, with no other bookkeeping duties in order to decrease the risk of improper adjustments to the cash receipts log. *See* Id.

The person opening the mail has several necessary duties to perform in order to establish adequate controls. First, all checks received should be restrictively endorsed by this individual and each receipt should be recorded in a log by this person as well.⁷³ *See* Id. The cash receipts log should list the amount and payor for each check or other cash item received and this record must be used by someone not in the finance office to verify the amount recorded in the general ledger and deposited in the bank. *See* Id. *See also* AGLR (2010 Ed.), Appendix VII, section H – Controls over cash receipts. This creates a running thread effect, as the recipient's fiscal records should allow an individual to trace the cash receipt from the initial entry in the cash receipts log,

⁷¹ In lieu of having the bank statements reviewed by a management official prior to the reconciliation, a Recipient may opt to deliver the bank statements un-opened to the person preparing the reconciliation. *See* Accounting Guide for LSC Recipients, Appendix VII, Accounting Procedures and Internal Control Checklist, Section I, no. 8

⁷² The described practice is consistent with the procedures outlined in RILS' accounting manual.

⁷³ The AGLR explains that when checks are not restrictively endorsed, the risk of those checks being cashed by an unauthorized individual significantly increases. *See* AGLR (2010 Ed.) 3-5.4

to the deposit in the bank account to the corresponding general ledger posting. *See* AGLR (2010 Ed.) 3-5.4 – Cash receipts

Policy and procedure: Interviews and a review of the accounting manual indicate that cash receipts are logged in to the cash receipts journal daily by the receptionist. After the receptionist makes two (2) copies of the check, she/he gives one (1) copy of the check and the log to the Executive Assistant for filing. The second copy, along with the original check, is given to the Finance Officer in order to be deposited or placed in the safe until the check can be deposited. Deposits are made by the File Clerk or another support staff member who has no affiliation with the Finance office.

Fiscal review: A sampling of deposits for the January 2011 and April 2012 time periods was randomly selected for review. The sampling was cross-referenced for accuracy and duplicity by using the “Monthly Receipts Log,” the corresponding bank statements, and the original deposit slips. This review indicated that the deposits sampled were accurately documented, timely recorded, and deposited.

c. Cash disbursements (payments)

The AGLR requires that paid invoices or paid bills should be marked with some identifying notation, such as “paid” in order to avoid duplicate payment. *See* Id., 3-5.4(a) – Cash disbursements. Paid invoices should also include a notation referencing the corresponding check number, the date the invoice was paid, along with any supporting documentation attached. *See* Id. In addition, charge account transactions must be reviewed in a timely manner in order to validate disbursements and to avoid finance charges and late fees. *See* Id., Appendix VII Accounting Procedures and Internal Control Checklist, section G3 – Controls over cash disbursements-credit/debit cards, no. 6

Policy and procedure: The receptionist opens all invoices and forwards them to the Finance Officer for review and payment.

Fiscal review: A limited review of sampled invoices indicated that all necessary and supporting documentation were attached to the invoices. Sampled paid invoices from the condominium association (dated 9/21/2011 and 10/1/2011) were not stamped “paid” or “canceled;” however, each invoice was “coded” with the following information:

1. Invoice number;
2. Invoice date;
3. Amount;
4. Check number
5. Check date; and
6. Approval (signatures).

Sampled invoices also indicated that RILS incurred several late fees on its Staples credit card in which the payments were charged to the LSC fund account. In addition, condominium

association fees that were charged to LSC funds also included late fees.⁷⁴ This issue was brought to RILS' attention by the members of the fiscal team. Subsequent to the on-site review, RILS was advised to do the following:

- ❖ As to the late fee payment in 2012 that was charged to LSC funds; this amount should be reclassified, by journal entry, to a non-LSC fund account;⁷⁵
- ❖ As to the 2011 condominium association fee payments, which included late fees that were charged to LSC funds, RILS should reclassify, by journal entry, the late fee charges, to a non-LSC fund account;
- ❖ As to the late fee payment in 2010 that was charged to LSC funds; RILS should do an inter-fund transfer to charge the amount to a non-LSC fund account.⁷⁶

Recommendations/Required Corrective Actions

Sampled fiscal records found no protocol deficiencies in the tested internal controls. However, the Draft Report recommended, in regards to its bank reconciliation procedures, that RILS make certain that in addition to initialing the statements, that the management official dates the statements as well. This will eliminate any confusion as to when the bank statements were initially reviewed. *See* AGLR, Appendix VII, Accounting Procedures and Internal Control Checklist, section I – Bank reconciliation procedures (requiring that a management official review the bank statements prior to preparation of the bank reconciliation reports).

In its comments to the Draft Report, RILS accepted this recommendation and further indicated that the Executive Director now initials and dates opened bank statements as of January 1, 2013.

To the extent that all paid invoices contain all of the above referenced “coded” information or notations, then it seems the requirement that all invoices be stamped “paid” or “canceled” is somewhat redundant as the information referenced above would seem to safeguard against duplicate payments. While RILS is not required to stamp all paid invoices as “paid” or “canceled,” and the limited fiscal review revealed no duplicate payments, the Draft Report noted that RILS may wish to opt to incorporate this additional internal control feature in its payment protocol.

In its comments to the Draft Report, RILS accepted this recommendation and further indicated that, as of January 15, 2013, it is in the process of implementing this additional internal control feature.

⁷⁴ RILS purchased two (2) floors of the building it currently occupies through a private grant. RILS is required to pay condominium fees to the Hanley Building Condominium Association. Fiscal records indicated that RILS incurred late fees in 2011 in the amount of \$ 97.36.

⁷⁵ The amount was \$46.91.

⁷⁶ The amount was \$28.72.

Finally, RILS was directed to indicate that it has correctly adjusted all three (3) late fee payments that were charged to the LSC fund account in the following manner:

- ❖ As to the late fee payment in 2012 that was charged to LSC funds; this amount should be reclassified, by journal entry, to a non-LSC fund account.

In its comments to the Draft Report, RILS indicated that it has correctly adjusted this late fee payment and has applied this charge to non-LSC funds.

This required corrective action will remain open pending receipt of documentation demonstrating that the late fee payment was reclassified to a non-LSC fund account.

- ❖ As to the 2011 condominium association fee payments, which included late fees that were charged to LSC funds, RILS should reclassify, by journal entry, the late fee charges, to a non-LSC fund account.

In its comments to the Draft Report, RILS indicated that it has correctly adjusted this late fee payment and has applied this charge to non-LSC funds.

This required corrective action will remain open pending receipt of documentation demonstrating that the late fee payment was reclassified to a non-LSC fund account.

- ❖ As to the late fee payment in 2010 that was charged to LSC funds; RILS should do an inter-fund transfer to charge the amount to a non-LSC fund account.

In its comments to the Draft Report, RILS indicated that it has correctly adjusted this late fee payment and has applied this charge to non-LSC funds.

This required corrective action will remain open pending receipt of documentation demonstrating that the late fee payment was reclassified to a non-LSC fund account.

IV. RECOMMENDATIONS⁷⁷

Consistent with the findings of this report, OCE offers the following recommendations:

A. Finding 2: regarding intake screening

1. The RILS' Manual should be revised to correctly reflect the contents of Program Letter 06-2 (including, but not limited to § 8.2); and
2. RILS staff in the Providence office should be provided with training regarding Program Letter 06-2 applying VAWA and its proper application during intake screening.

In its comments to the Draft Report, RILS indicated that it has conducted a series of mandatory trainings on September 20, 2012, September 26, 2016, and October 1, 2012. In addition, RILS indicated that its Practice and Procedure Manual was revised to accurately reflect the contents of Program Letter 06-2.

B. Finding 3: regarding income eligibility documentation and policy review

3. RILS should revise its ACMS and the Manual to the extent required, to mirror the revisions made in its financial eligibility policy; and
4. Staff should be provided with training, on the policy revisions and its effect on the intake screening process.

In accordance with the above referenced recommendations, RILS, in its comments to the Draft Report, indicated that it conducted individualized staff training regarding screening for income prospects and that mandatory staff compliance became effective as of June 18, 2012. RILS further indicated that its Case Management System was modified to include this inquiry.

C. Finding 4: regarding assets screening and policy review

The Draft Report recommended that RILS indicate that the following actions have occurred and where appropriate provide documentation evidencing same or provide a date certain as to when the following actions will occur:

5. Provide staff with training in order to ensure familiarity and understanding of RILS' asset exclusions for intake screening purposes, the types of allowable excludable assets, as well as, proper application of 45 CFR § 1611.3(e); and

⁷⁷ 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.

6. Ensure that, where appropriate, the ACMS and the Manual are updated to accurately reflect the policy revisions.

In its comments to the Draft Report, RILS accepted these recommendations and further indicated that it is in the process of implanting same.

D. Finding 5: regarding restrictions on legal assistance to aliens and policy review

7. RILS should provide staff with training regarding Program Letter 06-2 and its proper application during the screening process; and
8. RILS should revise § 8.2 of the Manual referencing legal assistance to victims of domestic violence so that it complies with Program Letter 06-2.

In its comments to the Draft Report, RILS indicated that it accepted these recommendations and further indicated that is in the process of implementing same.

E. Finding 7: regarding client identity and statement of facts

9. In order to eliminate any confusion or uncertainty, RILS should slightly revise its policy to reflect that a statement of fact does not apply when representation is through a volunteer or pro-bono private attorney. *See* 45 CFR § 1636.4.

In its comments to the Draft Report, RILS indicated that it accepted this recommendation and further indicated that it is in process of implementing same.

F. Finding 10: regarding CSR case closure and problem code categories

10. RILS may opt to provide supplementary training regarding proper application of closing code “K,” other, versus the de-selection code “X;” and
11. RILS may opt to provide supplementary training regarding proper application of the CSR problem code category “89,” other individual rights versus problem code category “99,” other.

In its comments to the Draft Report, RILS indicated that it accepted both of these recommendations and further indicated that it is in the process of implementing same.

G. Finding 11: regarding dormancy and untimely closure of cases

12. RILS may opt to provide staff with a cursory briefing as how case files should be documented in order to substantiate active status.

In its comments to the Draft Report, RILS indicated that it accepted this Recommendation and further indicated that it is in process of implementing same.

H. Finding 15: regarding fee generating cases policy

13. RILS may revise its policy to include a definition for “fee generating case” as outlined in 45 CFR § 1609.2.⁷⁸

I. Finding 24: regarding redistricting policy

14. RILS may revise its policy to incorporate language used in 45 CFR § 1632.3(a).⁷⁹

J. Finding 26: regarding representation of prisoners policy

15. RILS may revise its policy to include a definition of pertinent terms as provided in 45 CFR Part 1637.⁸⁰

K. Finding 33: regarding internal controls

16. In addition to initialing the bank statements, RILS may opt to have the management official date the statements also *See* AGLR, Appendix VII, Accounting procedures and Internal Control Checklist, section I – Bank reconciliation procedures.

In its comments to the Draft Report, RILS accepted this recommendation and indicated that this recommendation became effective as of January 1, 2013, as the Executive Director now initials and dates opened statements.

17. RILS may opt to stamp all paid invoices with “paid” or “canceled” as an additional control feature in its payment protocol.

In its comments to the Draft Report, RILS accepted this recommendation and indicated that it is in the process of implementing same.

V. REQUIRED CORRECTIVE ACTIONS

⁷⁸ This Recommendation was inadvertently omitted from Part IV of the Draft Report.

⁷⁹ This Recommendation was inadvertently omitted from Part IV of the Draft Report.

⁸⁰ This Recommendation was inadvertently omitted from Part IV of the Draft Report.

Consistent with the findings of this report, RILS is required to take the following corrective actions:

A. Finding 3: regarding income eligibility documentation and policy review

RILS was directed to indicate, in its comments to the Draft Report, whether the following actions have occurred and where appropriate provide documentation evidencing same or provide a date certain as to when the following actions will occur:

1. RILS has indicated that pursuant to 45 CFR § 1611.4(c), it will provide documentation indicating that its Board has made a determination that the income standards of the governmental program are at or below 125% of the FPG amounts and that the governmental program has eligibility standards which include an assets test. This documentation should be submitted with RILS' comments to the Draft Report.

RILS, in its comments to the Draft Report, indicated that it is in the process of revising its income eligibility policy and that prior to submitting the revised policy to its Board; it would forward the policy to OCE for review.

This required corrective action will remain open pending receipt of a compliant policy.

2. RILS should submit a revised version of its income eligibility policy to OCE for review incorporating the revisions set forth in the August 29th email.

RILS, in its comments to the Draft Report, indicated that it is in the process of revising its income eligibility policy. RILS further indicated that it would forward the revised policy to OCE for review prior to submitting it to its Board.

This required corrective action will remain open pending receipt of a compliant policy.

B. Finding 4: regarding asset eligibility policy

3. RILS should submit a revised version of its asset eligibility policy to OCE for review incorporating the revisions set forth in the August 29th email.

RILS, in its comments to the Draft Report, indicated that it is in the process of revising its income eligibility policy. RILS further indicated that it would forward the revised policy to OCE for review prior to submitting it to its Board.

This required corrective action will remain open pending receipt of a compliant policy.

C. Finding 5: regarding restrictions on legal assistance to aliens and policy review

RILS was advised to indicate, in its comments to the Draft Report, that the following actions have occurred and where appropriate provide documentation evidencing same or provide a date certain as to when the following actions will occur:

4. A slight correction is needed to the “Eligibility for Representation Form” to include the second required element for an unmarried child under 21 years of age whose parent is a United States citizen.

RILS, in its comments to the Draft Report, indicated that the form has been revised to accurately reflect all of the required elements from the appendix to 45 CFR Part 1626 for an unmarried child under 21 years of age. However, a copy of the revised form was not provided with RILS’ comments.

Based on RILS’ comments to the Draft Report, this required corrective action will remain open pending receipt of the revised form.

D. Finding 17: regarding RILS’ PAI efforts

RILS was directed to indicate, in its comments to the Draft Report whether the following actions have occurred and where appropriate provide documentation evidencing same or provide a date certain as to when the following actions will occur:

5. RILS must provide documentation evidencing its cost allocation methodology for non-legal work charged to its PAI fund based on reasonable operating data.

In its comments to the Draft Report, RILS indicated that 4% is a fair and reasonable allocation amount. RILS further explained that the 4% cost allocation is applicable across the board for all programs for non-legal work including the PAI fund. In addition, RILS further noted that every program would be charged its “. . . fair share of the administrative cost of operating.”

RILS must provide the formula used to reach the 4% cost allocation for OCE’s review and assessment. For example:

$$\text{Total PAI Cases Closed} \div \text{Total Closed Cases} = \text{Cost Allocation Percentage (i.e. 4\%)}$$

Based on RILS’ comments to the Draft Report, this required corrective action will remain open pending receipt of additional information from RILS.

6. RILS must review its open PAI files in order to ensure that in cases where the client was deemed financially eligible applying the previous 150% of the FPG threshold are not reported to LSC. To do so, RILS may elect to implement the following:

- a. not apply a “spend-down” or any other qualifying factors and simply not report any of those cases to LSC; **or**

- b. where appropriate apply a “spend-down” utilizing the criteria outlined in RILS’ revised financial eligibility policy or apply some other qualifying factor in accordance with its revised policy and report only those cases which meet LSC financial eligibility criteria to LSC; **and**
- c. for those cases that do not meet LSC financial eligibility criteria despite applying a “spend-down” or any other qualifying factors not report those cases to LSC.

In its comments to the Draft Report, RILS indicated that, as of June 2012, the VLP amended its income eligibility to 125% of the FPG. RILS also indicated that it chose option “a” where it will not report to LSC any VLP case that is not income eligible.

Based upon the information provided by RILS in its comments to the Draft Report, this required corrective action has been completed and is closed.

E. Finding 21: regarding restrictions on lobbying and certain other activities policy

- 7. RILS should submit a revised policy to OCE for review incorporating the revisions set forth in the July 19th email.⁸¹

RILS did not offer any comments regarding Finding No. 21 in its response to the Draft Report.

As RILS did not provide the revised policy with its comments, this required corrective action will remain open until RILS submits a compliant policy to OCE.

F. Finding 27: regarding restriction on solicitation policy

- 8. RILS should submit a revised policy to OCE for review incorporating all of the prohibitive and permissible actions listed in 45 CFR §§ 1638.3 and 1638.4.⁸²

RILS did not offer any comments regarding Finding No. 27 in its response to the Draft Report.⁸³

As RILS did not provide the revised policy with its comments to the Draft Report, this required action will remain open until RILS submits a compliant policy to OCE.

G. Finding 32: regarding restrictions on welfare reform policy

⁸¹ This required corrective action was inadvertently omitted from Part V of the Draft Report.

⁸² This required corrective action was inadvertently omitted from Part V of the Draft Report.

⁸³ This required corrective action was inadvertently omitted from Part V of the Draft Report.

9. RILS should submit a revised policy to OCE for review incorporating all of the prohibitions outlined in 45 CFR § 1639.3.⁸⁴

RILS did not offer any comments regarding Finding No. 32 in its response to the Draft Report.⁸⁵

As RILS did not provide the revised policy with its comments, this required corrective action will remain open until RILS submits a complaint policy to OCE.

H. Finding 33: regarding cash disbursement (payments)

Finally, RILS was directed to indicate, in its comments to the Draft Report, that it had correctly adjusted all three (3) late fee payments that were charged to the LSC fund account by:

10. As to the late fee payment in 2012 that was charged to LSC funds; this amount should be reclassified, by journal entry, to a non-LSC fund account.

In its comments to the Draft Report, RILS indicated that it has correctly adjusted this late fee payment and has applied the late fee charge to non-LSC funds.

This required corrective action will remain open pending receipt of documentation demonstrating that the late fee payment was reclassified to a non-LSC fund account.

11. As to the 2011 condominium association fee payments, which included late fees that were charged to LSC funds, RILS should reclassify, by journal entry, the late fee charges, to a non-LSC fund account.

In its comments to the Draft Report, RILS indicated that it has correctly adjusted this late fee payment and has applied this charge to non-LSC funds.

This required corrective action will remain open pending receipt of documentation demonstrating that the late fee payment was reclassified to a non-LSC fund account.

12. As to the late fee payment in 2010 that was charged to LSC funds; RILS should do an inter-fund transfer to charge the amount to a non-LSC fund account.

In its comments to the Draft Report, RILS indicated that it has correctly adjusted this late fee payment and has applied this charge to non-LSC funds.

This required corrective action will remain open pending receipt of documentation demonstrating that the late fee payment was reclassified to a non-LSC fund account.

⁸⁴ This required corrective action was inadvertently omitted from Part V of the Draft Report.

⁸⁵ This required corrective action was inadvertently omitted from Part V of the Draft Report.



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January 14, 2013

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

Re: Draft Report Case Management System Visit Review
Recipient No. 140000

Dear Ms. Rath:

This letter is in response to the Draft Report/ Case Management System Review Visit conducted the week of May 21-25, 2012. Rhode Island Legal Services, Inc. has reviewed the report and makes the following comments to the recommendations and required Corrective Action submitted by the review team.

Let me express our sincere appreciation to the Office of Compliance and Enforcement for your consideration and resolution of RILS initial client confidentiality concerns and the professionalism exhibited by the entire Review Team and the team leader, Tamara Gustave. Also, RILS notes the flexibility of the Office of Compliance and Enforcement in working around the absence of certain financial records stemming from the crash of the server February 20, 2012.

It should be noted that on Page 4 of the draft report, the communities served by the Main Office have been inadvertently omitted. The communities listed should include those in Providence, Kent, and Bristol Counties.

In response to the recommendations of the Review Team, RILS submits the following:

A. Finding 2: regarding intake screening

- 1. That the RILS' Manual be revised to correctly reflect the contents of Program Letter 06-2 (including, but not limited to § 8.2); and*
- 2. RILS has indicated that RILS staff in the Providence office will be provided with training regarding Program Letter 06-2 applying VAWA and its proper application during intake screening.*

RILS accepts the recommendation of the Office of Compliance and Enforcement and in addition to immediately addressing the issue with staff working in the area of Domestic Violence, has conducted mandatory trainings that included this correction on September 20, 2012, September 26, 2012 and October 1, 2012. In addition, the upcoming revised version of the RILS Practice and Procedure Manual includes the corrected notations and instructions for this issue.

B. Finding 3: regarding income eligibility documentation and policy review

- 3. RILS has indicated that it will revise its ACMS and the Manual to the extent required, to mirror the revisions made in its financial eligibility policy; and*
- 4. On-site discussions with RILS indicated that staff would be provided with training, on the policy revisions and its effect on the intake screening process.*

RILS accepts the recommendation of the Office of Compliance and Enforcement and at the conclusion of the site visit immediately conducted individualized staff training on the issue of income prospects. RILS implemented mandatory compliance with the new policy as of June 18, 2012. In addition, the Case Management System has been modified to include this recommendation for every case opened.

C. Finding 4: regarding assets screening and policy review

RILS in its comments to the Draft Report may indicate that the following actions have occurred and where appropriate provide documentation evidencing same or provide a date certain as to when the following actions will occur:

- 5. RILS has agreed to provide staff with training in order to ensure familiarity and understanding of RILS' asset exclusions for intake screening purposes, the types of allowable excludable assets, as well as, proper application of 45 CFR § 1611.3(e); and*
- 6. In addition, RILS should ensure that, where appropriate, the ACMS and the Manual are updated to accurately reflect the policy revisions.*

RILS accepts the recommendation of the Office of Compliance and Enforcement and is in the process of implementing the recommendation.

D. Finding 5: regarding restrictions on legal assistance to aliens and policy review

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.

7. While the team was on-site, RILS indicated that it will provide staff with training regarding Program Letter 06-2 and its proper application during the screening process; and

8. In addition, RILS should revise § 8.2 of the Manual referencing legal assistance to victims of domestic violence so that it complies with Program Letter 06-2.

RILS accepts the recommendation of the Office of Compliance and Enforcement and is in the process of implementing the recommendation.

E. Finding 7: regarding client identity and statement of facts

9. In order to eliminate any confusion or uncertainty, it is recommended that RILS slightly revise its policy to reflect that a statement of fact does not apply when representation is through a volunteer or pro-bono private attorney. See 45 CFR § 1636.4. RILS, may as part of its comments to the Draft Report, submit the revised policy for review to OCE.

RILS accepts the recommendation of the Office of Compliance and Enforcement and is in the process of implementing the recommendation.

F. Finding 10: regarding CSR case closure and problem code categories

10. RILS may opt to provide supplementary training regarding proper application of closing code "K," other, versus the de-selection code "X;" and

RILS accepts the recommendation of the Office of Compliance and Enforcement and is in the process of implementing the recommendation.

11. RILS may opt to provide supplementary training regarding proper application of the CSR problem code category "89," other individual rights versus problem code category "99," other.

RILS accepts the recommendation of the Office of Compliance and Enforcement and is in the process of implementing the recommendation.

G. Finding 11: regarding dormancy and untimely closure of cases

12. RILS may opt to provide staff with a cursory briefing as how case files should be documented in order to substantiate active status.

RILS accepts the recommendation of the Office of Compliance and Enforcement and is in the process of implementing the recommendation.

H. Finding 33: regarding internal controls

13. In addition to initialing the bank statements, RILS may opt to have the management official date the statements also; See AGLR, Appendix VII,

Accounting procedures and Internal Control Checklist, section I – Bank reconciliation procedures; and

RILS accepts the recommendation of the Office of Compliance and Enforcement and is in the process of implementing the recommendation as of January 1, 2013. The Executive Director as of January 1, 2013 will initial and date opened statements.

14. A limited review of fiscal records indicate that RILS has safeguards in place to prevent duplicate payments, however, RILS may opt to stamp all paid invoices with “paid” or “canceled” as an additional control feature in its payment protocol.

RILS accepts the recommendation of the Office of Compliance and Enforcement and is in the process of implementing the recommendation as of January 15, 2013.

With reference to required corrective action RILS submits the following comments:

A. Finding 3: regarding income eligibility documentation and policy review

RILS, in its comments to the Draft Report, should indicate that the following actions have occurred and where appropriate provide documentation evidencing same or provide a date certain as to when the following actions will occur:

1. RILS has indicated that pursuant to 45 CFR § 1611.4(c), it will provide documentation indicating that its Board has made a determination that the income standards of the governmental program are at or below 125% of the FPG amounts and that the governmental program has eligibility standards which include an assets test. This documentation should be submitted with RILS’ comments to the Draft Report.

RILS is currently in the process of revising its income eligibility policy. Prior to submission to the Board of Directors for approval, RILS will obtain approval of the revised policy from the Office of Compliance and Enforcement. The policy is currently on its second revision.

B. Finding 5: regarding restrictions on legal assistance to aliens and policy review

RILS, in its comments to the Draft Report should indicate that the following actions have occurred and where appropriate provide documentation evidencing same or provide a date certain as to when the following actions will occur:

2. A slight correction is needed to the “Eligibility for Representation Form” to include the second required element for an unmarried child under 21 years of age whose parent is a United States citizen.

RILS accepts the recommendation of the Office of Compliance and Enforcement and has revised its form to include the second required element for an unmarried child under 21 years of age.

C. Finding 17: regarding RILS’ PAI efforts

In its comments to the Draft Report, RILS should indicate that the following actions have occurred and where appropriate provide documentation evidencing same or provide a date certain as to when the following actions will occur:

3. RILS must provide documentation evidencing its cost allocation methodology for non-legal work charged to its PAI fund based on reasonable operating data; and

RILS submits that its cost allocation of 4% across the board for all programs for non-legal work including the PAI fund is reasonable. Every program should be charged a fair share of the administrative cost of operating. RILS has determined that 4% allocated toward programs is a fair and reasonable amount.

4. RILS must review its open PAI files in order to ensure that in cases where the client was deemed financially eligible applying the previous 150% of the FPG threshold are not reported to LSC. To do so, RILS may elect to implement the following:

a. not apply a "spend-down" or any other qualifying factors and simply not report any of those cases to LSC; or

b. where appropriate apply a "spend-down" utilizing the criteria outlined in RILS' revised financial eligibility policy or apply some other qualifying factor in accordance with its revised policy and report only those cases which meet LSC financial eligibility criteria to LSC; and

c. for those cases that do not meet LSC financial eligibility criteria despite applying a "spend-down" or any other qualifying factors not report those cases to LSC.

Beginning in June of 2012, the Volunteer Lawyer Program amended its income eligibility to 125% of the FPG. RILS will not report any case that is not income eligible. RILS will not apply a spend-down or any other qualifying factor and instead will not report any case that is not income eligible.

D. Finding 33: regarding cash disbursement (payments)

Finally, RILS, in its comments to the Draft Report, should indicate that it has correctly adjusted all three (3) late fee payments that were charged to the LSC fund account by:

5. As to the late fee payment in 2012 that was charged to LSC funds; this amount should be reclassified, by journal entry, to a non-LSC fund account;

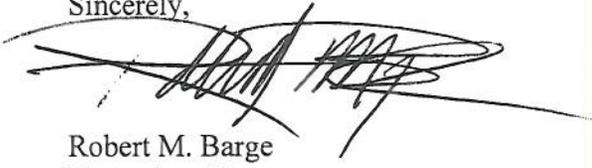
6. As to the 2011 condominium association fee payments, which included late fees that were charged to LSC funds, RILS should reclassify, by journal entry, the late fee charges, to a non-LSC fund account; and

7. As to the late fee payment in 2010 that was charged to LSC funds; RILS should do an inter-fund transfer to charge the amount to a non-LSC fund account.

RILS has taken the appropriate corrective action and correctly adjusted all late fee payments erroneously charged to LSC funds have been charged to non-LSC funds.

Once again, thank you for your consideration, professionalism, and assistance in meeting our statutory and regulatory obligations as the recipient of Legal Services Corporation funds.

Sincerely,

A handwritten signature in black ink, appearing to read 'RMB', with several horizontal and diagonal strokes crossing through it.

Robert M. Barge
Executive Director

RMB/gf