



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

Legal Services of Northern Virginia, Inc.
Case Service Report/Case Management System Review
October 11-14, 2011

Recipient No. 447007

I. EXECUTIVE SUMMARY

Finding 1: Overall, the LSNV ACMS is generally sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. A few exception patterns were noted, however these issues appear to be mostly caused by human error. However, one (1) significant ACMS error relating to report creation, caused by technical issues, was identified shortly before the October 2011 review.

Finding 2: LSNV has been highly effective in designing and implementing a standard intake process for the merged program. Overall, intake practices were strong. A few exceptions were noted that could be easily addressed.

Finding 3: Sampled cases evidenced that LSNV maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for applicants whose income does not exceed 125% of the Federal Poverty Guidelines (“FPG”). However, LSNV is not in compliance with 45 CFR § 1611.5 regarding cases with an initial household income over 125%, as several over-income cases lacked the required documentation.

Finding 4: LSNV is in substantial compliance with 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed.), § 5.4 regarding asset eligibility documentation.

Finding 5: Sampled cases evidenced that LSNV complies with the prohibitions of 45 CFR Part 1626 (Restrictions on legal assistance to aliens). However, some cases lacked the required form of documentation to evidence eligibility, in non-compliance with the documentary requirements of the regulation.

Finding 6: While the majority of files requiring a client retainer had a document that complied with 45 CFR § 1611.9, there were several files in which a fully adequate client retainer was not present. However, the problem appears to be mainly a transitional issue, with a majority of non-compliant cases having been inherited at the time LSNV began as an LSC recipient on January 1, 2010.

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

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

Finding 9: LSNV is in substantial compliance with CSR Handbook (2008 Ed.), § 5.6 (Description of legal assistance provided) for staff cases. However, there was non-compliance with this requirement for sampled PAI cases, as several lacked a description of legal assistance provided.

Finding 10: The program's application of the CSR case closure categories, under Chapters VIII and IX, CSR Handbook (2008 Ed.), was mostly accurate. However, there were some exceptions that mainly involved reporting of a case at too low a level of service.

Finding 11: LSNV is in non-compliance regarding the requirements of CSR Handbook (2008 Ed.), § 3.3 (Timely Closing of Cases) due to several dormant or untimely closed cases identified in the sampled cases.

Finding 12: Extensive testing of potentially duplicate sampled cases evidenced substantial compliance with CSR Handbook (2008 Ed.), § 3.2. LSNV correctly reports multiple unique cases, and does not report duplicate cases, as directed by the CSR Handbook.

Finding 13: The review indicated that LSNV is in compliance with 45 CFR Part 1604 (Outside practice of law).

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

Finding 15: A limited review of fiscal records, sampled cases and interviews with staff evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 16: A limited review of financial records, and interviews with fiscal and management staff evidenced compliance with the requirements of 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity). Limited review revealed that, from January 1, 2010 through June 30, 2011, LSC and non-LSC funds were used in accordance with various Part 1610 requirements. However, LSNV did not fully comply with the notification requirements of 45 CFR § 1610.5 as necessary notifications had been sent only to individual donors, and not to all relevant funders.

Finding 17: The review evidenced that LSNV is in compliance with the financial requirements of 45 CFR Part 1614 (Private attorney involvement). However, PAI case tracking and related CSR reporting requires improvement both for cases referred directly by LSNV and for cases handled through a subgrant with RLS.

Finding 18: Review of sampled financial records evidenced compliance with 45 CFR § 1627.4(a) (Subgrants and membership fees or dues). LSNV did not use LSC funds to pay membership fees or dues to any private or nonprofit organization.

Finding 19: Review of LSNV's timekeeping policies and procedures, and assessment of the automated ACMS time system indicated that LSNV has adequate systems and practices to comply with 45 CFR Part 1635 – (Timekeeping requirements).

Finding 20: Compliance with 45 CFR Part 1642 (Attorneys' fees) was not applicable to this review, as the operative period of enforcement for this regulation ended prior to LSNV becoming a recipient on January 1, 2010.

Finding 21: Sampled cases, review of financial records and other documents, and other research evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

Finding 22: Sampled cases and interviews with staff indicated 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 and interviews with staff indicated no involvement in any class action, as prohibited by 45 CFR Part 1617 (Class actions).

Finding 24: Sampled cases and interviews with staff evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 25: Sampled cases and staff interviews evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Finding 26: Sampled cases and interviews with staff evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of Prisoners).

Finding 27: Sampled cases and interviews with staff evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

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

Finding 29: Sampled cases and interviews with staff 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: Assessment of LSNV internal control structure regarding segregation of duties, utilizing LSC's *Internal Control Worksheet*, evidenced a proper separation of duties.

Finding 31: A limited review of internal controls over cash receipts evidenced some significant exceptions regarding use of the cash receipts log.

Finding 32: A limited review of internal controls over cash disbursements identified several deficiencies indicating that LSNV has inadequate controls in this area.

Finding 33: A limited review of internal controls over bank reconciliations evidenced several deficiencies.

Finding 34: A limited review of sampled invoices and internal controls over purchasing identified some late fees and finance charges inappropriately charged to LSC funding.

Finding 35: Review of policies and procedures, and related accounting regarding travel, evidenced adequate practices.

Finding 36: A limited review of LSNV internal controls over petty cash evidenced that LSNV has appropriate policies and procedures.

Finding 37: Review of sample financial records and related policies and procedures evidenced adequate practices regarding property. Also, a physical inventory of assets that are not fully depreciated should be completed.

Finding 38: Review of sample financial records and related policies and procedures evidenced adequate practices regarding payroll.

Finding 39: Review of sample financial records and related policies and procedures evidenced adequate practices regarding client trust funds.

II. BACKGROUND OF REVIEW

During the week of October 11-14, 2011, the Office of Compliance and Enforcement ("OCE") of the Legal Services Corporation ("LSC") conducted an on-site Case Service Report/Case Management System ("CSR/CMS") review at Legal Services of Northern Virginia, Inc. ("LSNV"). The purpose of the visit was to assess the program's compliance with the LSC Act, regulations, and other applicable LSC guidance such as Program Letters, the *Accounting Guide for LSC Recipients* (2010 Edition) ("Accounting Guide"), and the *Property Acquisition and Management Manual*. A team of six (6) persons conducted the review, consisting of two (2) LSC fiscal analyst staff, three (3) LSC attorney staff, and one (1) attorney temporary staff member.

The on-site review was designed and executed to assess the program's compliance with basic client eligibility, intake, case management, regulatory and statutory requirements and to ensure that LSNV has correctly implemented the 2008 CSR Handbook.¹ Specifically, the review team assessed LSNV for compliance with the regulatory requirements of: 45 CFR Part 1604 (Outside practice of law), 45 CFR Part 1608 (Prohibited political activities); 45 Part CFR 1609 (Fee-generating cases); 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity²); 45 CFR Part 1611 (Financial eligibility); 45 CFR § 1611.9 (Retainer agreements); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Part 1613 (Restrictions on legal assistance with respect to criminal proceedings); 45 CFR Part 1614 (Private attorney involvement); 45 CFR Part 1615 (Restrictions on action collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1620 (Priorities in use of resources); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1635 (Timekeeping requirement); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing); and Section 1007(b)(8) – (10) of the LSC Act, 42 USC §§ 2996f(b)(8) – (10) (Abortion, school desegregation litigation, Military Selective Service Act or desertion). Compliance with 45 CFR Part 1642 (Attorneys' fees) was not part of the October 2011 review, due to LSNV being a new LSC recipient³.

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

¹ In this report, the terms "2008 CSR Handbook" or "CSR Handbook" refer to the CSR Handbook (2008 Ed., as amended 2011).

² During the visit discussed in this report, program integrity was not comprehensively reviewed, as compliance with Part 1610 program integrity is done pursuant to a separate, specialized OCE visit. In the current visit, program integrity was only covered to the extent that any potential factors that could affect compliance with this regulation section were observed and documented, and then brought back to LSC for further assessment, if any.

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. Therefore, the operative period of enforcement for this regulation ended prior to LSNV becoming a recipient on January 1, 2010.

addition, targeted financial reviewing was conducted through review of program internal controls, and testing of program records and interview of financial staff and program management. For all four (4) days of the review, two (2) fiscal team members conducted an assessment of program financial records and selected internal controls at the Falls Church administrative office.

During the review, the team visited all seven (7) program offices in which case handling occurs: Arlington, Alexandria, Falls Church, Fairfax, Fredericksburg, Loudon, and Prince William. An eighth office (Route 1, Alexandria) was not visited as it has only one (1) full-time support staff member, is focused mainly on intake, and has no case files. In addition, team members visited the PAI sub-recipient, Rappahannock Legal Services (“RLS”). At each office, the review team conducted interviews with program management and staff, assessed the intake system and related forms, reviewed and/or collected available public materials for review of Part 1608 restrictions, and conducted sample case review.

The review period for case review and related regulatory compliance was from January 1, 2010 through the October 2011 review week. The primary review period for the fiscal review was January 1, 2010 through June 30, 2011.

In advance of the visit, LSNV 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). Access to sample case information was accomplished through an intermediary system, as set forth in an advance agreement with the program. The program provided full access to all staff, records, and information required to effectively conduct the review.

Sampled cases were selected from case lists provided by LSNV in advance of the visit. Case review was conducted to test compliance with CSR Handbook requirements and for other regulatory requirements and restrictions. In total, approximately 370 files were sampled in full. Other cases were tested in part, discussed below. The case sample included a large majority of randomly selected cases, including 2010 closed cases, 2011 closed cases, and open cases. As the 2010 CSR was the first and only final CSR submitted by LSNV since becoming an LSC recipient, some emphasis was given to cases closed in 2010. In addition, other files sampled had been targeted for review to test compliance with various case-related and case reporting requirements. Also, as the advance case lists indicated a significant number of sets or groups of cases for potentially the same client, an extended sample of case groups (a total of approximately 50 cases) was reviewed solely for assessment of compliance with CSR Handbook (2008 Ed.), § 3.2 regarding duplicate and multiple case rules.

Preliminary fiscal findings were shared with program management at the Falls Church administrative offices at the end of the review. Other preliminary findings were discussed in an exit conference held at the Fairfax office on the last day of the review. The LSNV ED, the Directing Attorney of the Fairfax office (the largest service both in staff and case numbers), and the Supervising Attorney for Intake (“SAI”) attended the exit conference. In addition, some observations were shared with program intermediaries and field office staff during visits to specific offices. Overall, program management was receptive to the preliminary findings and the need for change in some areas. Further, management indicated continued openness towards LSC

assistance with implementation of necessary corrective actions or other improvements. Along these lines, contact with program management continued after the visit, and included interactions on a significant revision of the LSNV PAI subgrants. It should also be noted that as issues were brought to the attention of LSNV management during the review, that corrective action was immediately commenced in some areas.

Background

Over 10 years ago, LSNV had been a direct LSC recipient, but after that, LSNV ceased being an LSC recipient, and was a non-LSC, unrestricted program. In recent times and up to 2009, LSC funded Potomac Legal Aid Society (“PLAS”) for the northern Virginia service area now served by LSNV. In 2009, a merger of PLAS and LSNV was facilitated, in coordination with LSC, to be effective on January 1, 2010.⁴ As of January 1, 2010, PLAS ceased to exist and LSNV became the “merged” LSC recipient for the northern Virginia service area. Some staff and all open cases from both prior programs were inherited by LSNV as of January 1, 2010. The October 2011 was the first OCE review for a new LSC recipient, formed from the merger of two (2) programs.

In preparation for the merger, LSNV engaged a consultant who reviewed the prior programs’ approaches to client service, legal practice structure, intake, case management, financial oversight, and grant compliance, among other considerations. Due to recommendations made through this assessment process, LSNV increased the positions and dedicated staff resources assigned to fiscal, intake, and related compliance systems. To increase staffing in the areas of finance and internal controls, LSNV created a new position, Program Administrator. Also key to the current management structure is a newly created position, the SAI, who oversees program-wide intake daily. LSNV management stated that the creation of a unified intake system was a significant goal and area of focus during the merger. LSNV also restructured its legal oversight as part of the advance merger transition.⁵

The LSC Office of Inspector General (“OIG”) conducted a review regarding and titled “Selected Internal Controls” at LSNV during January 24-31, 2011, with a review period covering January 1, 2010 through December 31, 2010. A final OIG report was issued immediately prior to the October 2011 OCE review. In its referral of the report to LSC management, the OIG left all six

⁴ In addition to advance work conducted by the LSC Office of Program Performance (“OPP”) to ensure an effective merger, OCE also assisted in these efforts by conducting several early training or technical assistance activities to facilitate the compliance transition of LSNV from being an unrestricted program to again being an LSC recipient. In January 2010, immediately after the effective date of the merger, OCE conducted an Accountability Training regarding basic compliance and CSR Handbook rules, for all staff of the new merged program. This was followed by on-site technical assistance by OCE in summer 2010 regarding fiscal, case management, and CSR compliance. Finally, a one-day CSR-related technical assistance was provided in February 2011 to assist with advance case review prior to the program’s first CSR submission for 2010.

⁵ Key to case management and oversight, both substantive and compliance related, is a program’s legal management system. LSNV has a “practice group” structure that allows attorneys in different offices to belong to a substantive practice group. However, as part of the merger, LSNV assigned the supervising attorneys of the geographic offices to be responsible for supervision of all attorneys located in their office. Previously, supervision could be within the practice group, which could result in a directing attorney being located in a different office from staff they supervise. According to LSNV management, this change to management organization allowed for more immediate and accessible supervision.

(6) of the OIG's report recommendations as open, in whole or in part, requiring LSC management follow-up and resolution. The OIG report recommendation topics were addressed during the October 2011 review as part of OCE's review of the program internal controls.

Transitional Considerations

The October 2011 OCE review was the first full, formal LSC compliance visit since the merger. The review occurred less than two (2) years after the formal merger of two (2) previously independent programs. LSNV, the successor program to the merger, was a non-LSC program and the larger of the two (2) merging programs. LSNV also contributed most of the staff for the new LSC recipient. Due to the above, the merger process required more extensive training and transition for most staff, as many of them had not previously worked in an LSC recipient.

As with any transition, certain issues may arise that are due in whole, or in part, to the transition itself. The review did identify some temporary or one-time issues that can, in LSC's experience, commonly occur with new and/or merged recipients. Some exceptions noted in the current review, especially as related to case intake, CSR reporting and related compliance and documentary requirements, may be, as of the October 2011 review, of lesser significance, especially if such errors were time or scope limited, and mainly caused by transition of staff, systems, policies, procedures and practices from two (2) programs to one (1). As discussed in this report, some error patterns observed were found to have been primarily concentrated in the first several months after LSNV began as an LSC recipient on January 1, 2010. It appears that as staff learned the proper procedures, errors lessened or ceased. In contrast, other issues identified in the October 2011 review were found to be active and significant, requiring current and future corrective action. LSNV has evidenced a strong management commitment to proper compliance and accounting systems. This has meant that LSNV has had ongoing implementation of improvements or corrective action as the need for change was identified.

Some issues were clearly one-time, or specifically related directly to the transition, such as the discontinuation of prior variant program forms, or the creation of a new accounting manual. A key transitional action was the purchase and implementation of a new automated case management system ("ACMS"). This required the transfer of case data from prior ACMS programs to the new system. As often occurs with such movements of data, and despite human best efforts, there was some data that appeared to not fully transfer, or that was omitted by the computer conversion process. However, any negative effects of the data transfer do not appear to be extensive. Two (2) small themes emerged. First, some files that were properly and previously closed did not have the closing data properly transferred, and therefore appeared again as an open case; such files need to be identified and manually re-closed. Second, in some files, other data did not fully transfer into the new system; this appears to have affected mostly the "case notes" records, which were cut-off or incomplete in a few files, but may have also affected some exception documentation for clients whose income was between 125-200% of the Federal Poverty Guidelines ("FPG"). It is noted that LSNV has continued to work to improve both the ACMS and staff use of the system. As part of this, subsequent to the visit, LSNV obtained a new version of its ACMS software that allowed for several additional improvements, some of which directly addressed issues raised during the review.

Finally, before January 1, 2010, LSNV was required to divest itself of a small number of then active cases being handled for non-citizens – cases that did not fit under the Kennedy Amendment exception for Part 1626, as discussed *infra*.

The above transitional issues and their effects will be discussed in this report, as relevant, in various report sections.

By letter dated May 30, 2012, LSNV received a Draft Report (“DR”) and provided an opportunity to comment. The program requested an extension of the initial comment time period, which was granted by LSC management. LSNV’s comments were received by LSC on July 27, 2012. These comments were fully considered and have been integrated throughout the report in the relevant sections. Further, a telephone call between the LSNV Executive Director (“ED”) and the OCE team leader was held on August 17, 2012 in which further updates were provided by LSNV regarding certain activities, and corrective action steps being taken. Information from this call was also included in the drafting of this Final Report (“FR”).

III. FINDINGS

Finding 1: Overall, the LSNV ACMS is generally sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. A few exception patterns were noted, however these issues appear to be mostly caused by human error. However, one (1) significant ACMS error relating to report creation, caused by technical issues, was identified shortly before the October 2011 review.

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

Based on a comparison of the information yielded by the ACMS to information contained in the case files sampled, the LSNV ACMS appears overall to be sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. It appears that there were some minor problems with the data entry and review of the entry procedures and case files. However, one (1) significant error was noted that affected proper report creation, as discussed below.

Production of Annual CSR Report

A key element of the LSC review was a detailed assessment of the program's first calendar year (2010) CSR report production, as per the ACMS. This assessment included: identification of the methodology utilized for case report selection; determination of case inclusion and case deselecting methods within the ACMS; determination of any case coding redundancies used to ensure proper CSR reporting; testing the reliability of the actual ACMS system utilized in its ability to accurately and consistently create selected case reports, based on case coding and selection criteria; and determination of whether program staff correctly and consistently utilize appropriate case identification and case coding. This assessment is done so as to determine whether the CSR report is a reliable reflection of the automated case data, and otherwise composed only of appropriately identified LSC-eligible cases.

A flaw in the ACMS report creation function was identified as part of the program's advance preparation for the review. In advance of the OCE review, program management was informed that the ACMS would be tested, in part, through requests of case lists that match reported numbers in various categories. There were issues confronted by LSNV while trying to produce a case list that corresponded to the exact number of cases reported to LSC. As part of preparing requested advance case lists, LSNV management then identified an ACMS report selection issue, which was causing the reporting issue. It was determined that the "CSR reportable" field in the front end of the Kemps ACMS was not linked to the corresponding field in the ACMS end section that supports report selection and creation. As an accurate list of cases reported could not be recreated, it was determined that LSNV should produce a list of 2010 closed cases that were indicated as LSC eligible and reportable as per the ACMS. At first there was concern that the CSR count provided to LSC in early 2011 was too high; however, ultimately, it was determined

that the revised case list created by LSNV contained more cases than the number reported in the 2010 CSR. LSNV produced this new LSC-eligible 2010 closed case report by utilizing a dual selection process that included whether the case was coded as LSC funded. The revised LSNV CSR numbers by office, as represented in case lists produced in September 2011, are:

Alexandria	616
Arlington	489
Fairfax	2369
Fredericksburg	458
Loudoun	278
Main Office/Falls Church	892
Prince William	597
Advice & Counsel Cases	
Transferred to RLS	871
Total	6570

During the review, other evidence was identified to indicate the case selection issues discussed above. For example, Closed 2010 Case No. 10E-0006012, opened May 21, 2010 and closed August 19, 2010, was reported in error, as the case presented as not fully LSC eligible. Examination of the ACMS coding of this case evidenced that it was identified as “program eligible,” but the “LSC eligible” box was unchecked and not selected. Also, the “CSR reportable” box was also unchecked and not selected. Despite this, the case was included in CSR reportable case list provided in advance of the review. Staff explained that there had been issues with the ACMS consistent treatment of the “CSR reportable” information box. As this case was reported in the revised CSR list, as described *supra*, the need for continued improvement of case coding and of the ACMS case report capacity is clear.

As soon as LSNV determined the ACMS error regarding the “CSR reportable” field, it initiated corrective action. Shortly after the October 2011 review, the ACMS system was upgraded to include several changes. Part of the upgrade was a linking of the appropriate categories of case identification and selection to the reporting function. As of the upgrade, LSNV staff stated that the ACMS could now also consistently identify and sort LSC-eligible cases from the “CSR reportable” identifier. With its comments to the DR, LSNV was asked to explain what ACMS data fields and identifiers will be used to produce future LSC-eligible CSR case lists. Further, LSNV was asked to explain how the report-generation function and the ACMS would be used effectively so as to not include LSC ineligible cases in a CSR.

Comments to the DR stated that, in order to produce accurate LSC-eligible case lists, LSNV is now searching based upon the “CSR Eligible” field. Comments explained that this search can be run on the user-friendly “front-end” of Kemps, and that a separate query on this same field is then also done on the administrative “back-end” of Kemps. Comments explained that the second query enables the program to confirm the case totals from the “front-end” search, and that it also provides a much wider array of data about each case, from which additional queries can be done to further double-check that the included cases are CSR-eligible. LSNV then saves all of this case data from the “back-end” search in an Excel file for future reference.

LSC notes that the explanation provided above would appear to provide sufficient checks and testing for the identification of cases eligible for the CSR report to address the issues noted during the review.

ACMS Highlights

The ACMS intake screens and related processes have some built-in “redundancies” that serve, over time, to reduce or eliminate some compliance errors. For example, in the critical area of telephonic screening of US citizenship, two (2) notations are required in the ACMS: first, a box stating “US Citizen” must be affirmatively checked; and in another information box, the choice “US citizen” must be selected from a drop down menu of options. Both data fields must be completed for a finding of citizen eligibility.

The review evidenced that the over-income factors (expenses) include one (1) item that is not an eligible factor. Specifically, the category of “other” was a choice regarding expenses to be considered for clients whose income is between 125-200% of FPG.⁶ The LSC regulation does not include “other” as an acceptable exception category, and the DR advised that this choice should be removed. Comments to the DR stated that “other” has been removed, as directed.

It is noted that all cases requested for review by LSC were located and produced by the program, indicating that case control and filing systems for physical files are appropriate.

Cases Raising ACMS Questions

One (1) case raised questions regarding whether the ACMS system may have additional issues or whether human error was present. This case was clearly marked to be deselected when it was closed in June 2010. A closing memo indicated that the file was not eligible for LSC reporting and the file indicated a closing code of “X” (used as a redundant system by which to indicate a non-reportable case). However, this case appeared on the “open” case list provided by LSNV. *See* Open Case No. 09E-21003741.

Five (5) other files reviewed were identified in the ACMS as funded by “other” funding sources, however the case lists provided to LSC indicated that the files were LSC-funded as the funding source shown on the case lists was “1,” indicating LSC.⁷ It is possible that such cases were originally opened under other funding, and then switched to LSC by a staff member simply changing the funding designation in the ACMS. However, so that the file and the ACMS are consistent, if doing such a switch, an indication in the case file that this action was officially

⁶ For example, in Closed 2011 Case No. 11E-0021288, there was a household over 125%. The file had identified “other” expenses of \$200.00 in the expenses category with no other information in the file regarding what “other” signified.

⁷ *See* Closed 2010 Case Nos. JUR080417, CVA040924, DWA050914, and DWR060706 (Notes in the ACMS indicated that these cases were funded by the City of Alexandria). *See also* Closed 2010 Case No. 10E-0008913 (Notes in the ACMS indicated that this case was supported a Federal DOJ Grant (funding source 11). The intermediary stated it is likely that the funding source had been changed to the DOJ funding at case closing, but that the advocate had failed to also change the funding source number on the ACMS “screen 2,” which would cause the file to continue to display as an LSC-funded case.)

taken is warranted. Without such a file note, it may bring into question whether the ACMS is capable of accurately reflecting the information as input.

In other cases, staff indicated some potential confusion regarding the significance of funding source vis-à-vis CSR reporting. In Closed 2010 Case No. 10E-0005261, an over-income case, lacked any factors or expenses to establish the case as LSC-eligible. Staff indicated correctly that the lack of over-income factors was insignificant as Title III funding was used for the case. However, the case was included in the Closed 2010 CSR case list, thereby raising concerns as to how cases funded by non-LSC funds are correctly sorted for CSR reporting. Also, as cases may be reported to LSC regardless of funding if they meet all LSC rules, LSNV is encouraged to document factors for incomes over 125%, where permissible and warranted, so that any such LSC eligible cases could be CSR reportable.

With its comments to the DR, LSNV was requested to research certain cases discussed in this section, and listed below, and to report on its findings. Regarding the one (1) open case that remained open (after being closed and specifically designated for deselection), (Open Case No. 09E-21003741), program comments stated that the deselection of the case was in error, as limited service had been provided on the case. Regarding the five (5) cases that had differences noted regarding the funding source of the case (Closed 2010 Case Nos. JUR080417, CVA040924, DWA050914, DWR060706, and 10E-0008913), program comments stated that all five (5) cases should have been marked as either Title III or local government funding. Finally, program comments explained that the one (1) closed case reported to LSC (in which the case file information indicated the applicant was over-income), (Closed 2010 Case No. 10E-0005261), should have been coded as funded by Title III, and not LSC.

Cases Incorrectly Designated as PAI or Staff

There were several sampled cases that had the incorrect designation as either being a PAI or staff case. Most of these involved potential PAI cases that were never successfully placed or served by a PAI attorney, and should therefore have been designated as a staff case when closed, as the only legal advice provided was by an LSNV staff member.⁸ All of these errors appear to be simple human error at case closing. There was also one (1) open case indicated as a staff case that should be designated as a PAI case.⁹

In the DR, LSNV was requested to provide additional direction and oversight for staff regarding proper coding of cases in the ACMS, and in particular to provide emphasis and targeted oversight to: the proper designation of cases as staff or PAI at case closing; and the proper practices regarding funding source identification of cases. As detailed further at the end of this report, in the section addressing required corrective action, program comments to the DR described an ongoing and evolving program commitment to training and oversight for both staff and PAI cases, and the comments stated that the two (2) items discussed above have been addressed with staff and through oversight systems.

⁸ See Closed 2010 Case Nos. 09E-104120, LAV081022, 10E-21002175, 10E-26001627, 10E-24001052, and AA2090429, and Closed 2011 Case No. 11E-0019512.

⁹ See Open Case No. EJA080.

Finding 2: LSNV has been highly effective in designing and implementing a standard intake process for the merged program. Overall, intake practices were strong. A few exceptions were noted that could be easily addressed.

Intake was assessed at the individual office level during on-site visits to seven (7) program offices. Intake was also assessed from the overall system perspective. The intake assessment included: interview of intake paralegals; observations of multiple live telephonic intake screening¹⁰; testing of the ACMS; assessment of the program's Intake Manual ("IM") and its implementation; testing outcomes of the intake system through case sampling, and assessment of oversight and related training systems.

Overall, assessment of the LSNV intake system evidenced that the program has appropriately implemented a uniform method of applicant screening as supported by the ACMS, and that intake staff have been well trained and managed. LSNV has been highly effective in designing and implementing a standard intake process for the merged program. Intake staff interviewed was knowledgeable of proper intake policies and practices, and comfortable using the ACMS for live intake. A few exceptions, that can be easily addressed, were noted, as discussed below.

Basic Intake System

LSNV's intake is centralized and highly standardized. Applicants call an "800" number and the call is routed to the first available intake paralegal regardless of the location of the caller or intake paralegal. Intake occurs each day with a morning and afternoon session in which telephone or walk-in applicants can be handled. All intake workers use the same computerized intake screening system for both telephone and in-person applicants.

An available paper intake form, found consistently throughout the program, is only a partial screening form. The paper form is not required, and when utilized, it is appropriately used solely as a preliminary intake tool.¹¹ The paper form is not allowed, and is not used, as a replacement for the standard automated intake screening. No variations in forms or basic processes were observed during the review.

Intake staff relies on the ACMS for calculations related to income and asset eligibility. Sample calculations were tested and found to be accurate. Therefore, this process appears to be sufficient in determining applicant eligibility. Once an intake is completed, and if the applicant is eligible for services, the intake worker collects more detailed information related to their legal

¹⁰ The observation method strictly avoided any confidentiality concerns. Observation was done only for telephonic intake, and with the team member only able to hear the questions asked by the intake worker. No applicant answers were heard, and the name of the caller or any other identifying information was not shared or accessed. The observation allowed for direct witnessing of the questions asked, and how the ACMS system was used as part of the interview process.

¹¹ For example, in one office the paper form was used solely as a back-up documentation system in which the applicant *may* be asked to complete the form prior to an intake worker conducting a full intake interview. The form was stated to be often used if there is more than one in-person applicant at a time with the applicants being asked to complete the form while waiting.

problem and refers to the “LSNV Case Acceptance Priorities Manual”¹² and the “LSNV Case Scheduling Matrix” in order to make a decision as to the appropriate next action. Applicants can be: scheduled for a call-back appointment with a case handler and for possible limited legal advice; scheduled for an in-person appointment with a case handler and for possible extended representation; assigned to a specific LSNV office due to subject area; referred to Rappahannock Legal Services (“RLS”); or referred to another entity.

The intake worker, frequently also the receptionist at the office, also is a front-line for needed compliance documentation. In-person applicants will be asked to sign a citizenship attestation. Eligible non-citizens will be told that they must bring to the program the documentation that establishes their legal residency. Also, when applicants arrive at program offices for their first appointment with a case handler, intake workers stated that necessary compliance documentation is completed prior to the client seeing the attorney. One (1) intake worker used an example regarding an eligible non-citizen and noted that if the applicant did not bring appropriate documentation establishing legal status, the applicant would have to return with that documentation prior to seeing the attorney.

LSNV staff consistently screen applicants for required income, assets and other eligibility data, with two (2) noted exceptions. One (1) exception involved a lack of consistent screening for reasonable income prospects. A second exception, identified in case sampling, was that in some cases over 125% of FPG did not have evidence of over-income factors (expenses) allowing for acceptance of the case. Both exceptions are discussed further, *infra*.

Supervision

The review evidenced that LSNV has active oversight and supervision of intake. As mentioned previously, during the advance merger preparation, LSNV created a new position – the SAI. The SAI position allowed for ongoing and consistent oversight for the intake process, and it also served to effect the transition from two (2) separate programs to a merged program with a single, standard intake system. The same individual has been in this position since prior to the merger.

Both intake staff and the SAI described daily contact with each other. Intake staff interviewed emphasized that the SAI is readily available for assistance regarding specific cases or questions that arise on any day. During the observation of intake, contact by an intake worker to the SAI was observed – with email and telephone contacts resulting in very rapid interaction and assistance being provided.

In addition to daily contacts, group emails are sent as needed, and the entire intake staff meets at least monthly. The meetings address any identified areas of weakness; provide training; facilitate discussions between intake staff regarding any trends identified; and identify and discuss best practices. Meetings are mostly in-person to encourage staff participation, and are held more frequently if additional training or discussion is necessary. According to both staff

¹² This manual appears to be an effective tool during the intake process, as it has a comprehensive list of common legal issues to assist the intake staff in determining how to assign or refer any specified legal issue. This manual is used during intake should there be any questions regarding whether a case is within LSNV’s priorities.

and management interviewed, topics critical to compliance, as well as more complex topics, such as the program's case acceptance guidelines, are handled periodically and repetitively in the monthly meetings so as to reinforce and refine staff knowledge. Intake personnel interviewed stated that they found the monthly meetings to be both useful and effective in helping them do their job.

As an ongoing oversight system, the SAI conducts ongoing random reviews of completed intakes to spot-check for accuracy and to identify any errors or weaknesses in the intake process. Errors noted will become topics of dedicated communications and future meetings so as to ensure proper compliance with program policy and LSC requirements.

Intake Manual

As noted previously, LSNV has developed an IM that is extremely thorough in its description of the intake process. The IM serves to clarify and set policy, provide guidance for frequently experienced intake scenarios, and to assist with the overall standardization of intake throughout the program.

The IM provides detailed instructions in the use of the ACMS and various intake rules and related documentation requirements. It contains standard scripts for use by staff. It includes references and citations to the Code of Federal Regulations for sections with policies based on regulations. Specific and clear guidelines are provided for important intake decisions – such as how to define, screen, and ensure the proper determination of the members of the client's "household." Also, necessary detail is clearly provided regarding the different levels of intake screening required for the two (2) different service area providers – LSNV and RLS.¹³

In addition to discussion and detailing of required minimum elements, the IM also addresses and adopts several best practices designed to ensure that an applicant has been appropriately and fully screened. For example, one (1) strength is a section addressing how to handle applicants who state they have no income. In these circumstances, LSNV intake workers are directed to ask a number of additional questions to understand how the person is currently living, and whether there are sources of money that should be considered.

The IM is not static and has been an ongoing work, and is used to document improvements and changes as needed. With the advance documentation provided by LSNV before the on-site review, an "*Under Revision*" version of the IM was provided. Review team members assessed this draft, and discussions with the SAI, including some feedback, occurred. During the on-site review week, an updated version was provided dated "*October 2011.*" Assessment of IM policy versus practices of staff interviewed evidenced that substantial work has been dedicated to the production and maintenance of a current and useful guide.

¹³ Under a PAI subgrant arrangement, LSNV has delegated client service for one region to a subgrantee, RLS. As part of this arrangement, LSNV conducts intake for cases in the RLS service area and will then facilitate a case referral. RLS case acceptance guidelines differ from LSNV and are generally more restrictive, requiring different intake screening.

As the review found that LSNV has a standardized intake system, with a common reliance on a centralized ACMS-driven intake process, necessary or desired future changes are easily implemented through changes to the ACMS. Likewise, as there is an updated, and active, IM, this manual is another source for effective updates or necessary change. Additional instruction, explanation, and policy can be provided via additions or revisions to the IM, and, when necessary, this can be accompanied by changes in the ACMS. Such combined actions can quickly effect certain program-wide changes. This ability is a significant strength of the LSNV intake system.

Case Acceptance

Program attorneys are responsible for case acceptance. Managing Attorneys and other staff described a varied approach to case acceptance. Experienced staff attorneys can have the authority to accept a case for representation without consulting with their Managing Attorney, and without waiting for the weekly case acceptance meeting. The weekly case acceptance meetings were described as a platform for less experienced attorneys to discuss case facts and seek a consensus related to case acceptance. Weekly meetings can also discuss pending case strategy and other case related matters. All attorneys can and do speak with Managing Attorneys as needed for consultations related to case acceptance.

Managing Attorneys also stated that they use the ACMS periodically to identify cases that have been open for an extended period, and to conduct follow-up with the assigned staff.

Legal Advice

There is no legal advice by any intake staff, and LSNV has a uniform protocol that ensures that only a case handler will provide legal advice. Intake paralegals schedule appointments for applicants with an attorney. Staff or volunteer attorneys will then call the applicant at the appointment time and only they can provide any legal advice.

Interview of several intake workers and case handlers indicated consistency with the program practice that only case handlers are authorized to provide legal advice. Observation of intakes evidenced that intake workers regularly and clearly disclose to applicants that they are not an attorney and are not authorized to provide any advice. Applicants are informed that a program attorney may offer legal advice in a subsequent call but only after an application has been completed, and a case accepted.

Clinics

LSNV conducts various clinics and outreach activities. Some of these activities do not directly involve intake and the provision of legal services during a scheduled event. Other events may include intake and the provision of legal services. According to the LSNV ED, LSNV controls the intake for clinic and outreach events by utilizing one (1) of three (3) possible methods. First, screening and a determination of eligibility can be done in advance of a scheduled event. This has been used for visits to senior citizen centers. Second, laptops may be taken and a full intake done, using the Kemps system, while on location. A full eligibility and case acceptance will occur prior to any provision of legal services. For example, this is the method used for a

regularly scheduled clinic conducted at the Arlington Department of Human Services. A third method is where some information will be collected from an applicant while at a clinic location, with the use of a limited intake form. Later, a full intake is conducted via telephone by regular intake screening staff. After case acceptance, legal advice will then be provided by phone. LSNV staff are aware of the requirements of obtaining citizenship attestations for these specialized intake circumstances. Staff members understand the need to obtain a citizenship attestation when part or all of the intake screening contact has been done in person.

Group Eligibility

Intake staff indicated that they had never had a group case to screen, and some staff members interviewed was not aware of any special considerations as to how to handle a group client application. Also, the Intake Manual did not address this specialized type of intake.

It is recommended that LSNV adopt a group eligibility policy to guide staff regarding this specialized type of intake.

Cases Over 125% of FPG

A “pink box” in the ACMS is used for recording expenses that could be applied to income between 125-200%. The income as originally stated above 125% is maintained, while the computer has an option to “compute” the pink box information to arrive at an adjusted income figure which is also then maintained. LSNV does not use a strict spend-down and the recorded expenses are used as factors that guide an over-income case acceptance. However, cases referred to RLS do require a strict spend-down, and intake staff knew to use the recalculated figure for determination of eligibility for RLS cases.

While intake staff members were clearly aware of the need for expenses to be recorded for applicants with household income over 125% of FPG, and while many sampled cases contained such information, a number of sampled cases over 125% did not contain any expenses or factors, as needed, for case acceptance under LSC eligibility guidelines. This is discussed further, *infra*.

Reasonable Income Prospects

The review evidenced that prospective income is not part of the standard intake interview, and is not consistently queried of all applicants. LSC regulations, at 45 CFR § 1611.7(a)(1), require LSNV to inquire into the reasonable income prospects of all applicants during every eligibility determination and note this inquiry. The inquiry may be noted in the case file or in the ACMS. This observation was shared with the SAI during the review, and LSNV took immediate corrective action by emailing instructions to all intake staff regarding the mandatory nature of prospective income screening for all applicants. The SAI also stated that this issue would be discussed during the next intake staff meeting. Also, in contacts after the review, it was noted by LSNV staff that an updated ACMS version was obtained, and that the ACMS now includes a dedicated question and system prompt regarding prospective income.

With its comments to the DR, LSNV was requested to explain whether the corrective action taken to date has been fully sufficient in ensuring that all applicants are now being questioned

regarding prospective income and that evidence of such an inquiry is being recorded in each file. Program comments stated that after the most recent upgrade to the program's ACMS, that there is now a question regarding prospective income that automatically populates in the notes section of the eligibility screen, and that this question must be completed by the intake screener. Comments also explained that a layer of redundancy was added, in that an "error check" also requires staff to affirmatively fill in a check-box on the eligibility slip, so as to indicate that an inquiry into prospective income has been completed. LSC notes that these new procedures within the ACMS appear strong and, with the redundancy, they should provide good evidence that prospective income screening is now part of standard intake screening.

Asset Waiver

LSNV has an appropriate policy allowing waiver of assets ceilings "under unusual circumstances" subject to the discretion of the "ED or his/her designee." *See* LSNV Resolution Regarding Financial Eligibility for Assistance, Assets ¶ 3 and 45 CFR § 1611.3(d)(2). *See also* LSNV Intake Manual (October 2011 Edition), ¶ II(B)(6)(h). However, intake interviews identified that the ability of an assets waiver is not part of the ongoing awareness of all intake staff, as it appears to not occur frequently, or at all. As such, any standards or procedures for identifying a potential waiver case were not clear to several staff. LSNV is not required to waive assets – however, as allowed by the regulation, it adopted a policy to allow assets waiver where warranted. As such, it is recommended that LSNV take steps to instruct intake staff as to the appropriate circumstances wherein an over-asset application should not be immediately rejected, but should be directed towards management for waiver consideration.

Finding 3: Sampled cases evidenced that LSNV maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for applicants whose income does not exceed 125% of the Federal Poverty Guidelines ("FPG"). However, LSNV is not in compliance with 45 CFR § 1611.5 regarding cases with an initial household income over 125%, as several over-income cases lacked the required documentation.

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.¹⁴ *See* CSR Handbook (2008 Ed.), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2008 Ed.), § 5.2.

In those instances in which the applicant's household income before taxes is in excess of 125% but no more than 200% of the applicable Federal Poverty Guidelines ("FPG") and the recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5(a)(3) and 45

¹⁴ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed.), § 5.3.

CFR § 1611.5(a)(4), the recipient shall keep such records as may be necessary to inform LSC of the specific facts and factors relied on to make such a determination. *See* 45 CFR § 1611.5(b), CSR Handbook (2008 Ed.), § 5.3.

For CSR purposes, individuals financially ineligible for assistance under the LSC Act may not be regarded as recipient “clients” and any assistance provided should not be reported to LSC. In addition, recipients should not report cases lacking documentation of an income eligibility determination to LSC. However, recipients should report all cases in which there has been an income eligibility determination showing that the client meets LSC eligibility requirements, regardless of the source(s) of funding supporting the cases, if otherwise eligible and properly documented. *See* CSR Handbook (2008 Ed.), § 4.3.

The LSNV Financial Eligibility Policy states that financial eligibility will be determined pursuant to the income guidelines most recently promulgated by LSC. All sampled cases reviewed evidenced that the applicants were screened for income eligibility, at least in part. Sampled cases with income below 125% of FPG indicated sufficient screening and evidence supporting income eligibility. However, as discussed, *supra*, so as to have a fully compliant income screening, all applicants must be screened for income prospects.

In contrast, several sampled cases evidenced non-compliance with 45 CFR § 1611.5, CSR Handbook (2008 Ed.) § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of FPG, discussed below.

Households Between 125-200% of FPG

There were numerous files identified that lacked the required over-income documentation. Several of these cases were likely affected by the ACMS conversion of case data that occurred with the adoption of a unified ACMS. Several cases that had been opened prior to the merger date of January 1, 2010, and inherited by LSNV as an open case, were found to be lacking required over-income exception documentation. Program mergers can present transitional issues regarding income exception documentation, especially where differing databases are converted and combined, such as what occurred with LSNV. The information regarding over-income exception factors is sometimes corrupted or does not fully transfer in a database conversion. Case sampling indicated the presence of such occurrences, to some extent, during the database conversions and combinations undertaken prior to January 1, 2010.¹⁵ Indications of such problems are evidenced by partially transferred or cut-off information in the new ACMS file. During 2009, LSNV transferred its ACMS from a “CHARM” database to “Kemps,” and then the LSNV and PLAS databases were combined. Due to the above, it is likely that a number of the cases LSNV inherited from the previous system may have been properly documented, but that some case information was not transferred.¹⁶ If such a file did retain its initial coding as LSC eligible, it would then be included in a selection of LSC-eligible or LSC-reportable cases, despite

¹⁵ For example, in Closed 2010 Case No. DWR060706, the intermediary explained that this case had been transferred from a different ACMS system (CHARM) and that the file indicated that some information, including income data, might not have transferred properly or fully.

¹⁶ In support of this, some sampled cases opened before the merger by LSNV (when it was not an LSC recipient) contained all necessary income exception information for income over 125%. *See* Closed 2010 Case Nos. 09E-1042097 and BC109050.

lacking over-income factors. There were several cases opened prior to January 1, 2010 that lacked over-income factors.

Ultimately, if the current file record contains no documentation of factors or exceptions allowing acceptance of an over-income client, the case should be deselected and not included in the CSR.¹⁷

There were also a significant number of exception cases lacking necessary over-income documentation that were opened and closed in 2010 under the post-merger intake and ACMS systems. These cases were also mistakenly reported in the CSR.¹⁸ The documentation issues in these files may have been by human error.¹⁹ Cases sampled that were opened in 2011 contained very few exceptions. There was also one (1) open case exception.²⁰

The issue of missing documentation was discussed with program management during the review. Also, due to the importance of this issue, it was discussed further with program management after the review. Subsequent to the review it appears that LSNV revised the ACMS intake screens so that LSNV's ACMS system now does not allow a case with household income over 125% to proceed without further questions and required documentation. If this ACMS fix works properly and as described, this action could fully address the issue for future cases. However, corrective action for previously opened cases is necessary, as described below.

Despite any transitional issues involved, it is critical that a program ultimately not report in a CSR any case that is not fully documented as eligible. Additional defective cases may present in the future for case closing, and any such case must be deselected when closed and not included in the CSR.

LSNV screening and documentation systems for applicants under 125% of FPG were effective and no corrective action is necessary. However, LSNV should take targeted corrective action to ensure that in all instances where an applicant's household income is between 125-200% of FPG, that case acceptance is based on exceptions authorized under 45 CFR §§ 1611.5(a)(3) and (a)(4) and that LSNV keeps such records as may be necessary to inform LSC of the specific factors relied on to make such a determination. *See* 45 CFR § 1611.5(b) and CSR Handbook (2008

¹⁷ For example, *see* Closed 2010 Staff Case No. 09E-25002233 which presented as not LSC eligible. A household of two (2) exceeded the 125% threshold with no explanation or documentation to justify the over-income acceptance. Other sampled cases are Closed 2010 Case Nos. AMA-070820, 09E-1039441, 09E-23002644, 09E-24003870, and 09E-104120. There was also one (1) file mistakenly reported that was over 200% of FPG, that contained no required spend-down based on medical costs. *See* Closed 2010 Case No. CMC081229 which was opened on December 29, 2008 and closed on February 11, 2010, as an "A" level service that was 244% of FPG.

¹⁸ For example, in Closed 2010 Case No. 10E-21003624, closed as an Ib, there was an income level between 125-200%, with no documentation explaining case acceptance. Similarly, in Closed Case No. 10E-0005871, opened and closed in May 2010, a household of one (1) with an income 188% of FPG had no explanation or documentation to justify the over-income acceptance. Other sampled cases opened in 2010 lacking documentation are: Closed 2010 Case Nos. 10E-0006012, 10-21001237, 10E-0008913, 10E-0015302, 10E-0007454, 10E-0003887, 10E-0006038, 10E-0006877, 10E-23001563, 10E-21001165, 10E-0013696, 10E-0005209, and 10E-001161.

¹⁹ It should be noted that other sampled cases, opened in 2010, did properly document over-income exception factors and the case acceptance determination. *See* Closed 2010 Case Nos. 10E-0007097 and 10E-0007897.

²⁰ Closed 2011 cases lacking documentation of exceptions for income over 125% were 11E-0019112, 11E-0027584, 11E-0026342, and 11E-0021293. The one (1) open case identified was 11E-0025087.

Ed.), § 5.3. It is noted that towards this goal, that LSNV added a change to the ACMS system so that applicants over 125% will be flagged to ensure that a documentation of exceptions occurs.²¹

Effective actions to support this goal may include:

- Additional training for all intake staff²² and targeted testing of new intakes with household income over 125%, to ensure that the ACMS change is working appropriately in not allowing any LSC-funded case to proceed without documentation of exceptions;
- Targeted review of every currently open case with household income over 125%, to ensure that appropriate documentation to support LSC-eligibility and case acceptance is present. Open cases in which the exception information is not present, and cannot be obtained, must be switched to a non-LSC funding source;
- Instruction to all case handlers that prior to commencing work on a newly assigned case, that if the household income is over 125%, that the file contains appropriate documentation to support acceptance as an exception case; and
- Ongoing review of all cases with household income over 125%, as they are presented for case closure, to ensure that any case lacking the required waiver information is deselected from CSR reporting and not charged to LSC funds.

Comments to the DR stated that LSNV has provided training on the issue discussed in this section. Further, comments stated that LSNV will be implementing a new case closing oversight process whereby managing attorneys will review all cases at the time they are presented for closing. This review of to-be-closed cases will allow for management to ensure multiple compliance requirements, including the items discussed in this section. In a September 6, 2012 email update, the LSNV ED stated that the case closing oversight process is now fully developed and in the process of being fully implemented. This communication explained that some managers have already fully engaged the new protocols, while others are still working towards full implementation.

Finding 4: LSNV is in substantial compliance with 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed.), § 5.4 regarding asset eligibility documentation.

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets

²¹ Comments to the DR detailed the ability of the ACMS to assist with proper documentation of factors for cases between 125-200% of FPG. First, the eligibility screen lists the allowable factors and records a specific dollar amount for any allowable expense. As a safeguard, there is an error box in the ACMS that requires staff to confirm that expenses have been appropriately entered. Importantly, if no allowable factors/expenses have been entered, the ACMS will not allow the case to be identified as LSC funded (a checkbox used to identify LSC funded cases will not allow the checkmark for cases between 125-200% of FPG in the absence of allowable factors/expenses).

²² As some attorneys can conduct a full intake using a program laptop during an outreach or clinic event, targeted or ongoing instructions regarding proper intake practices should also be directed to the attention of such attorneys.

except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.²³ *See* CSR Handbook (2008 Ed.), § 5.4.

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

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

The LSNV board-approved policy requires that the asset ceiling for individuals and households shall not exceed \$5,000.²⁴ The asset ceiling may be waived for specific applicants under unusual circumstances and when approved by the program's ED or his/her designee. Also, financial eligibility may be established without an independent determination of assets where the applicant receives benefits from a government program for low-income individuals that determines assets in a manner consistent with applicable regulations.

Almost every sampled case contained the asset eligibility documentation required by 45 CFR §§ 1611.3(c) and (d), and CSR Handbook (2008 Ed.), § 5.4.²⁵ There were a very few exceptions, and these presented no pattern or other systemic compliance issue. Most exception cases were inherited on January 1, 2010 as open cases, and had been subjected to a database transfer.²⁶ In some of these cases, staff intermediaries observed that the file had likely experienced data transfer issues.

There was one (1) case opened in 2011 that lacked evidence of an assets determination. *See* Open Case No. 11-0028084.

²³ A numerical total value must be recorded, even if it is zero or below the recipient's guidelines. *See* CSR Handbook (2008 Ed.), § 5.4.

²⁴ The following assets are excluded from consideration in determining assets: (a) a household's principal residence; (b) vehicles used for transportation; and (c) assets which are exempt under Virginia Code Section 34-26 (the poor debtor's exemption): family Bible; wedding and engagement rings; family portraits and heirlooms not exceeding \$5,000 in value; household furnishings not to exceed \$5,000 in value; medically prescribed health aids; and tools, machines and equipment, including motor vehicles which are necessary for and which are used in the applicant's or household's trade, not to exceed \$10,000 in value.

²⁵ The revised 45 CFR § 1611.2 defines assets as meaning cash or other resources of the applicant or members of the household that are readily convertible to cash, which are currently and actually available to an applicant. Accordingly, the terms "liquid" and "non-liquid" have been eliminated.

²⁶ *See* Closed 2010 Case Nos. JUR080417 and DWR060706 and Open Case No. EJA080702. The fourth inherited file is discussed above as an over-assets file. *See* Closed 2010 Case No. 09E-23002644.

An additional two (2) exception cases involved assets that exceeded the assets ceiling, but the files contained no evidence of an appropriate waiver.²⁷ One (1) file was inherited, and one (1) was opened in 2011: Closed 2010 Case No. 09E-23002644 and Closed 2011 Case No. 11E-0027054, respectively. As discussed previously, further guidance to staff regarding assets exception cases is warranted so as to ensure that such cases are properly handled.

LSNV should take targeted corrective action to ensure that cases without evidence of assets screening are not included in the CSR. This can be simply accomplished by ensuring that, as part of closing case review, some emphasis is given to this point, and that cases lacking sufficient evidence of an assets screening, or lacking a necessary waiver are identified, deselected, and also not charged to LSC funds. Comments to the DR stated that LSNV will be implementing a new case closing oversight process whereby managing attorneys will review all cases at the time they are presented for closing. This review of to-be-closed cases will allow for management to ensure multiple compliance requirements, including that cases without evidence of assets screening are deselected from LSC reporting, and not charged to LSC funds. In a September 6, 2012 email update, the LSNV ED stated that the case closing oversight process is now fully developed and in the process of being fully implemented. This communication explained that some managers have already fully engaged the new protocols, while others are still working towards full implementation.

Finding 5: Sampled cases evidenced that LSNV complies with the prohibitions of 45 CFR Part 1626 (Restrictions on legal assistance to aliens). However, some cases lacked the required form of documentation to evidence eligibility, in non-compliance with the documentary requirements of the regulation.

The level of documentation necessary to evidence citizenship or alien eligibility depends on the nature of the services provided. With the exception of brief advice or consultation by telephone, which does not involve continuous representation, LSC regulations require that all applicants for legal assistance who claim to be citizens execute a written attestation. *See* 45 CFR § 1626.6. Aliens seeking representation are required to submit documentation verifying their eligibility. *See* 45 CFR § 1626.7. In those instances involving brief advice and consultation by telephone, which does not involve continuous representation, LSC has instructed recipients that the documentation of citizenship/alien eligibility must include a written notation or computer entry that reflects the applicant's oral response to the recipient's inquiry regarding citizenship/alien eligibility. *See* CSR Handbook (2008 Ed.), § 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.), § 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.²⁸ Although non-LSC funded legal

²⁷ Comments to the DR stated that LSNV would be using the affirmative selection of the "CSR Eligible" option to ensure documentation of a decision to serve any persons whose assets exceed the standard eligibility level.

²⁸ *See* Kennedy Amendment at 45 CFR § 1626.4.

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

The Part 1626 assessment in the current review involved certain transitional issues that can commonly occur with a program merger. In the case of the LSNV- PLAS merger, the non-LSC program (LSNV) was the successor program to the merger. LSNV had been a fully independent non-LSC program before January 1, 2010, with an unrestricted caseload that had included some cases that would not qualify under Part 1626.

LSNV staff interviewed evidenced high awareness of the importance of Part 1626 compliance. Staff also noted that upper management had provided both clear guidance and high prioritization regarding the need to ensure that all new and transferred cases had clients eligible under Part 1626. This emphasis appears to have been effective as no case identified was ineligible under Part 1626. However, as discussed below, proper documentation of eligibility was an issue in several files.

As one (1) merging program was previously not LSC-funded, the documentation of information relevant to Part 1626 may not have been done in an exact format that fully meets LSC guidelines. Cases were inherited on January 1, 2010 that, while not violating the eligibility requirements of Part 1626, did not meet the documentary requirements of the regulation. With some of these cases, LSNV was successful in obtaining updated compliant Part 1626 documentation. In other cases this either was not possible, or did not occur.

Divestiture of Part 1626 Ineligible Cases

The first significant, and time-limited, issue which involved 45 CFR Part 1626 compliance, was that prior to the merger LSNV needed to end its participation in a few dozen cases in which the client did not qualify under the citizenship or eligible resident status requirements of the regulation. These cases mainly involved health and related issues for persons with HIV, and were conducted pursuant to specialized funding. Discussions with program management, review of communications with LSC and LSNV prior to the merger, review of case lists for targeted health law and related problem codes, and review of sampled cases by the team evidenced no activity representing any clients who are not either US citizens or eligible non-citizens. Ineligible cases were divested or closed.

Cases Opened Prior to Merger

Cases eligible under Part 1626 were transferred to the new merged LSNV. However, when these cases were from the prior non-LSC LSNV, they had been screened and documented for intake by a program that, at the time, was not an LSC recipient and not subject to LSC rules. This can mean that while eligible under the regulation, that the proper form of eligibility under Part 1626 is not present. This most critically can affect the citizenship attestation requirement under Part

1626, as well as evidence of the required review of eligible non-citizen documentation. While there is evidence of successful efforts to obtain updated and fully proper Part 1626 documentation,²⁹ other cases continued to have defective documentary evidence under Part 1626.³⁰ For those cases lacking proper Part 1626 documentation, the file should be deselected, not reported in a CSR, and not charged to LSC funds.

However, case sampling evidenced that that some (inherited) cases opened pre-merger were mistakenly included in the 2010 CSR that should have been deselected. These cases lacked the necessary level of documentary evidence required under Part 1626 for CSR inclusion.³¹ A few similar inherited cases were also identified in closed 2011 cases,³² as well as one (1) open case.³³

In addition to the cases above, other cases opened pre-merger contained an outdated attestation format. The involved form allowed for a signature, but required the applicant to also check applicable boxes indicating whether the information contained in the application was correct, and including whether they were a US citizen, or an eligible alien. In five (5) inherited cases, a US citizen signed the form, but failed to check the box to indicate citizenship status, and thus there was no actual written attestation conducted. These cases include two (2) open cases.³⁴

Another case utilizing this form had a client signature but where the person checked the box “eligible alien.”³⁵ This alone does not satisfy Part 1626. For eligible aliens seen in person, or served at levels exceeding the “A” or “B” closing code levels, a program representative must physically review the non-citizen’s documentation that evidences that they are a legal resident and eligible for services.

All of the above Part 1626 exception case types should be deselected from reporting when closed. As all of the above cases were opened pre-merger, and not screened under the full requirements of Part 1626, it is reasonable that a number of such cases will be, and should be, deselected when closed, on the basis of inadequate Part 1626 documentation. It is reasonable that some cases first screened by a non-LSC program may, despite proper efforts, lack updated information. However, for inherited cases still open and active as of the end of 2011, additional targeted corrective action should be taken, as discussed below.

²⁹ For example, Closed 2010 Case No. 09E-26003217, opened in 2009 and closed June 2010 contained a compliant citizenship attestation dated April 2010.

³⁰ For example, Closed 2010 Case No. CMC081229, opened in December 2008 and closed in February 2010, was included in the 2010 CSR; however it should have been deselected as the client had come to a clinic, and despite the in-person contact there was no citizenship attestation. Similarly, in Closed 2010 Case No. 09E-25002233 there was an in-person meeting with the client and no attestation was obtained.

³¹ See Closed 2010 Case Nos. DWR060706, SLY-080107, CSM-051005, and ADA080407.

³² See Closed 2011 Case Nos. MBA090617 and GR1081024.

³³ See Open Case No. REL090224.

³⁴ Of the five (5) cases, two (2) were currently open: See Open Case Nos. EJA080702 and TAB080402. The remaining three (3) cases had been closed. See Closed 2010 Case Nos. CVA040924 and DWA050914 and Closed 2011 Case No. AWO080213.

³⁵ See Closed 2010 Case No. JUR080417.

Files Opened Since January 1, 2010

Sampled cases also identified errors in Part 1626 documentation in cases opened by LSNV since January 1, 2010. These mostly involved cases that could have been limited to advice by telephone, or a referral, but where the client came to LSNV offices, or was otherwise seen in person, making a citizenship attestation required. These included both currently open³⁶ and closed cases, including cases transferred to RLS.³⁷ LSNV closes certain RLS referral cases at a limited service level as provided by LSNV staff. Cases in which the client is seen in person require an attestation.

Although sampled cases for eligible non-citizens evidenced that LSNV is aware of and has used appropriate screening and documentation systems,³⁸ there were two (2) such cases that lacked the necessary level of evidence.³⁹

Date Issue

There were several cases with signed attestations that did not contain a date. However, all of these cases, except one (1), were opened prior to January 1, 2010, and may have used older attestation forms that did not contain a date line.⁴⁰ These cases complied with the fundamental requirement for an attestation. However, the regulation requires a recipient to have *applicants* who are US citizens execute an attestation. As such, a date allows a program to demonstrate that an attestation was obtained prior to case acceptance or at the first appropriate opportunity.⁴¹

As the above date issue appears to be mostly a transitional issue, there is no corrective action required at this time. However, it is recommended that LSNV provide a simple reminder to staff regarding the importance of the attestation date.

³⁶ See Open Case Nos. 10E-0015302, 10E-0015935, 09E-28000850 and 10E-0006142.

³⁷ Four (4) closed cases lacking an attestation were found. Three (3) of these involved cases that appeared on the "Transferred to RLS Closed 2010" case list, and the file indicated that the client was seen, at some point, in person at LSNV, thus requiring an attestation. See Closed 2010 Case Nos. 10E-1001775, 10E-1001924, and 10E-24000576. A fourth closed case also did not contain a required attestation. See Closed 2010 Case No. 10E-21000516.

³⁸ For example, in Closed 2010 Case No., 10E-0017017, LSNV staff conducted a fully compliant review of an eligible resident's documentation by meeting with the client at an outreach office.

³⁹ See Closed 2010 Case Nos. 10E-0012108 and 10E-0007397.

⁴⁰ Cases inherited on the date of the merger lacking a date were Closed 2010 Case Nos. WA-030521, DBU-011114, ESM-060130, YME-070831, MRE-081030, AMA-070820, and 09E-25003137. The only case other case lacking a date was opened in 2011, and the lack of date appears to be a simple error. See Open Case No. 11E-0017835.

⁴¹ It should be noted that in practice, an attestation can be obtained during a first in-person meeting with the client, and that this sometimes is after initial case acceptance. This can be acceptable. However, for cases in which the applicant was seen in person, or where the applicant was requested to bring documents to the program as part of the application process, an attestation should be executed prior to case acceptance.

Corrective Action

The above findings indicated the need for the following corrective action. As set out in the DR, LSNV should:

- Ensure that citizenship attestations are obtained when required. Further, for non-citizens, LSNV must ensure that appropriate eligibility documentation is reviewed, and that this review is evidenced in the file;
- Obtain the required document or evidence of document review in any open case lacking the necessary level of documentation under Part 1626. This should include any inherited cases that remain open and active; and
- Charge the full costs of any Part 1626 exception case (in which full documentation under Part 1626 is not ultimately obtained or reviewed) to a non-LSC funding source. Such cost calculations should begin at case acceptance, or for inherited cases, should begin at January 1, 2010.

Comments to the DR described actions that have been taken to address the above three (3) corrective actions, as well as ongoing processes and future actions, that will work to ensure compliance with the documentation requirements of Part 1626. The actions taken by LSNV are detailed further, *infra*, in the report section, *Required Corrective Action*.

Finding 6: While the majority of files requiring a client retainer had a document that complied with 45 CFR § 1611.9, there were several files in which a fully adequate client retainer was not present. However, the problem appears to be mainly a transitional issue, with a majority of non-compliant cases having been inherited at the time LSNV began as an LSC recipient on January 1, 2010.

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.⁴² Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

A majority of cases closed with higher-level closing codes, and that required a client retainer, contained an adequate document. However, there were several files that required a client retainer that either did not have the document, or where the document did not meet all of the regulatory requirements. However the eleven (11) exception cases, taken together, do indicate a likely and

⁴² 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.

positive trend. In short, LSNV has increased its client retainer compliance to a near-perfect level for cases opened since the merger date (January 1, 2010) that have also been closed more recently (during 2011), as discussed below.

The largest group of cases that lacked a required retainer or where the retainer was not fully compliant was cases opened by LSNV prior to the date it became an LSC recipient, and when the program was not subject to the retainer requirement.⁴³ For some of these cases, with work almost completed, it may have not been possible to now obtain or complete the retainer. Some of these cases had been opened for many years. For example Closed 2010 Case No. SAU051014 had a retainer that was not fully executed by both parties. However, the case was opened in 2005, the same year that the retainer was created. As such, this case does not reflect current program practices.

A second, smaller group of cases lacking a required retainer or where the retainer was not fully compliant involved cases opened since the merger, both in 2010 and 2011.⁴⁴ Case sampling identified only three (3) exception cases opened since January 1, 2010 and closed in 2010. Finally, case sampling identified only two (2) exception cases opened since January 1, 2010 and closed in 2011. This suggests that compliance with the client retainer requirement has continued to improve during the first 21 months of the program's operation as an LSC recipient, and that in 2011 there are few exceptions. In light of this apparent increasing level of success over time, the required corrective action for LSNV is targeted. The DR directed that LSNV should take the following two (2) specific and limited corrective actions that will support the ongoing requirement that retainer agreements are to be executed in extended service cases when representation commences or as soon thereafter as is practical:

- (1) Emphasize, as part of ongoing open case oversight, testing for client retainers, when required. The additional direct oversight is best focused as part of the standard periodic open case review -- when cases are active with ongoing client involvement, it is more probable that a missing retainer can be subsequently obtained; and
- (2) As part of ongoing case closing review, identify any file requiring a client retainer that failed to have a fully acceptable and executed document. Provide feedback to those staff or management who handled the file as to the shortcoming. Also, look for any patterns of cases lacking a required retainer (such as a unit or practice area) and take steps to remedy the shortcoming.

Comments to the DR stated that the proper execution and maintenance of retainer agreements would be a standard part of the review by managing attorneys of all to-be-closed files. Comments also noted that training on this issue has been conducted, and will continue to be conducted at periodic trainings conducted for staff. Finally, comments noted that the LSNV Legal Work Management Guidelines provides clear direction for staff regarding the retainer

⁴³ There were seven (7) exception cases in the review sample that were inherited cases – cases opened prior to January 1, 2010: Closed 2010 Case Nos. CVA040924, SAU051014, 09E-23001891 and SAM-090624 and Closed 2011 Case Nos. SBE-090305, VOR-090615, and SAM-090624.

⁴⁴ There were only three (3) exception cases in the review sample that had been opened since the merger and were closed in 2010. *See* Closed 2010 Case Nos. 10E-0007288, 10E-0007027, and 10E-21000516. There were only two (2) exception cases identified in the review sample that had been opened since the merger and were closed in 2011. *See* Closed 2011 Case Nos. 11D-0022986 and 11W-0026018.

requirement. Also, in an August 17, 2012 telephone call with visit team leader, the LSNV ED added that open case oversight reviews also require checking for retainers, were applicable. The LSNV ED also stated that, when case review identifies an office or practice group with an issue pattern, such group would receive targeted attention, as needed, through its managing attorney, as directed by upper management.

It is noted that LSNV correctly reported in its LSC CSR, the above-discussed cases that lacked a retainer. LSC rules direct that cases that are eligible and properly documented for eligibility and legal advice should be included in the CSR regardless of client retainer compliance.

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

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

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).

Every case opened since January 1, 2010, that required a Part 1636 statement, contained a document that fully satisfied the regulatory requirements. There were three exceptions noted in the case sample – all from cases opened prior to the merger date. Further, the three cases had been opened by LSNV when it was not an LSC recipient, and was not subject to the requirements of Part 1636.⁴⁵ . Client identity and statement of facts documents are usually obtained and required at the beginning of a case.

As all cases accepted since LSNV became an LSC recipient were compliant, the case sampling evidenced that LSNV current practices regarding Part 1636 are highly effective. The inherited cases do not present a current or ongoing compliance issue, and no corrective action is required.

LSNV provided no comments to this finding.

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

⁴⁵ These cases were: Closed 2010 Case No. SAM-090624; and Closed 2011 Case Nos. VOR-090615 and SBE-090305.

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.

Sampled cases evidenced compliance with 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources). All sampled cases fit within LSNV priorities with no exceptions.

LSNV provided no comments to this finding.

Finding 9: LSNV is in substantial compliance with CSR Handbook (2008 Ed.), § 5.6 (Description of legal assistance provided) for staff cases. However, there was non-compliance with this requirement for sampled PAI cases, as several lacked a 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.), § 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.), § 5.6.

LSNV is in compliance with CSR Handbook (2008 Ed.), § 5.6 regarding staff cases. Almost every staff case sampled contained evidence of legal advice as required by CSR Handbook (2008 Ed.), § 5.6. There was one (1) notable observation regarding closing category “K” “Other.” A few sampled cases with this closing code clearly lacked any evidence of legal advice. *See e.g.*, Closed 2010 Case Nos. 10E-25003507 and 10E-25002123. Further, one (1) of these files clearly contained instructions that the case be excluded and not reported. The use of closing category “K” in that case indicates that this closing category might be misunderstood by some staff as able to be used in case deselection. It is important that staff understand that closing code “K” should be used only for cases to be included in the CSR. It is recommended that LSNV communicate to staff involved in case closing, that “K” is only for CSR reportable cases. Further, it is recommended that cases closed with “K” in the future receive a second review to ensure accuracy and that the case is properly included in the CSR.

LSNV is in non-compliance with CSR Handbook (2008 Ed.), § 5.6 regarding PAI cases. There were numerous reported PAI cases sampled that lacked any documentation of legal advice, with several of these involving clinic cases.⁴⁶ While some cases fully lacked any evidence of advice, other cases had unclear file notes, allowing for uncertainty as to whether, or what, service occurred.⁴⁷

It should be noted that other PAI cases closed and/or reported in the CSR did have clear and sufficient documentation of legal advice.⁴⁸

Due to the above findings, the DR directed that LSNV should take corrective action to:

- Adopt new and ongoing efforts designed to ensure that PAI cases in which assistance occurred document the assistance; and
- Ensure that any PAI case reported in the CSR includes clear evidence of legal advice that supports the level of legal service (closing code) reported;

Comments to the DR stated that LSNV has drafted, and is in the process of implementing a new closing/tracking form that clarifies the closing information that is needed by including an abbreviated version of the CSR definitions of closing categories. The form also requests that the pro bono attorney records a description of the case that supports the closing category selected.

Finding 10: The program’s application of the CSR case closure categories, under Chapters VIII and IX, CSR Handbook (2008 Ed.), was mostly accurate. However, there were some exceptions that mainly involved reporting of a case at too low a level of service.

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.), § 6.1.

The sample case review contained numerous examples of correctly used closing codes, including more complex codes such as “G” and “L.” However, in other cases the closing code was inaccurate. Exception cases represented some miscellaneous errors, but also included a few

⁴⁶ For example, Closed 2010 PAI Case No. 10E-21001165 only documented that the client expressed interest in bankruptcy and that they were then referred to private attorney. The case was closed with closing code “B” and with no evidence of any service being provided. Other PAI cases with no evidence of legal advice were Closed 2010 PAI Case Nos. SLY080107, YME-070831, 10E-0006511, AAS090429, RL0060814, 09-26001406, LST070924, and MW1050621. One sampled case lacking documentation of legal advice was closed in 2011. *See* Closed 2011 PAI Case No. 10E-001315. Other exception cases lacking advice involved clinic cases. *See* Closed 2010 PAI Case Nos. 10E-0009474, 10E-0010340, and 09E-21001304.

⁴⁷ As discussed with some staff intermediaries or other staff during the review, a minimum level of legal advice documentation for the common “A” level of service could include frequent use of the word “advised” followed by one or more legal topics discussed with the client. It is recommended that notes avoid a simple listing of possible legal areas or problems of the client, without specific clarity as to whether anything was legally discussed with, or done for, the client. For example, a note that “client has housing problem” or vague statements such as “advised client” without clarity as to the topic of the advice, are typically insufficient to establish that legal advice occurred. However, “advised client regarding family law” would be minimally sufficient for an “A” level closing.

⁴⁸ For example, Closed 2010 PAI Case No. 10E-0013078 and Closed 2011 PAI Case No. 11E-0018555 had clear evidence of advice to support closing code level.

limited exception patterns. The most noteworthy theme observed was a significant underreporting of the level of service provided in various cases. This underreporting included one (1) group of cases incorrectly closed as “A” or “B,” when the file evidenced a higher, or significantly higher, level of service.⁴⁹ Another group of cases had been closed as an “L,” but the case file evidenced a more descriptive and higher level of extended service.⁵⁰

There were a few other cases, correctly reported at a higher closing code level, but where a different higher closing code would have been more accurate, as based on the file evidence. These involved a choice between “G” and “Ia” or “Ib,” or a choice between “Ia” and “Ib.” Most of these cases were closed in 2011 and staff intermediaries stated that the closing codes would be changed before CSR reporting.⁵¹

Finally, no case closed with “K” was properly coded as a “K.” Most of these involved files that should have been deselected.⁵² However, two (2) did not. In Closed 2010 Case Nos. 09E-28003582 and 09E-1041987, instead of “K,” the cases should have been closed with “Ia” and “L,” respectively.

It is noted that some reported files that lacked legal advice contained a closing code selection. Cases lacking proper description of legal advice are discussed more fully in that section of this report, *supra*. Where no legal advice is present, no closing code is accurate, and any such file should simply be deselected from CSR reporting.⁵³ Some cases indicated that a closing code of “X” was available for use. A non-LSC closing code option, such as “X,” is a useful tool towards ensuring that cases without legal advice, or with other issues, are not mistakenly included in the CSR. When case lists are produced by selecting the various closing code categories, category “X” will not be included, as LSC has no such reporting category. It is recommended that LSNV encourage use of closing code “X” for any case in which the file lacked legal advice, so as to provide additional coding of cases that should not be reported in the CSR

In addition to closing codes, the CSR Handbook also sets forth various legal problem codes. Programs should select a problem code that best describes the subject matter of the legal work

⁴⁹ Four (4) cases should have been closed as “L.” For example, in Closed 2010 Case No. DSM-081002, “B” was used, and in Closed 2010 Case No. SSA-070802, “A” was used, where “L” would be more accurate in both cases. *See also* Closed 2010 Case Nos. 09E-28002516 and KST-080929 and Closed 2011 Case No. RJA081107. One (1) case closed as “B” evidenced service at the “H” level. *See* Closed 2010 Case No. ESM-060130. Finally two (2) cases closed with an “A,” reflected evidenced of legal advice at the “Ib” level. *See* Closed 2010 Case No. MBA090626 and Closed 2011 Case No. 08-E-1034699.

⁵⁰ In Closed 2011 Case No. MOR070823, closed with “L,” code “H” was more accurate. In this case LSNV represented the client in an administrative hearing regarding SSDI benefits, and a decision was eventually obtained. Also, in Closed 2010 Case No. ORO080201, closed with “L,” the file evidenced service at the “Ib” level. Finally, in Closed 2010 Case No. RGU-090423, “Ia” is more accurate than “L.”

⁵¹ In Closed 2011 Case No. 11E-0017450, closing code “G” was selected, but “Ia” is more accurate. Similarly, in Closed 2011 Case No. NGO-070323, closing code “G” was selected with “Ib” being more accurate. Finally, in Closed 2011 Case No. SBE-090305 closing code “Ib” should be “Ia.” There was one 2010 case: in Closed 2010 Case No. 10E-0007288 closing code “Ia” is more accurate than the “G” level selected.

⁵² For example, Closed 2010 Case No. 10E-0009008, closed as “K,” should have been deselected.

⁵³ For example, neither Closed 2010 Case No. SLY-080107 with a closing code of “A” or Closed 2010 Case No. 10E-21001165 with a closing code “B” had any evidence of legal advice, rendering the closing codes inaccurate. These cases, and others like them, should be deselected and not reported in the CSR.

being conducted. Case sampling evidenced that LSNV selects appropriate problem codes to reflect the work conducted.

In light of the above findings, the DR directed that LSNV should take corrective action, in the form of additional written instruction to staff, and heightened oversight of closed cases, to ensure proper use of closing codes, with an emphasis on ensuring that cases with higher levels of assistance use an appropriate higher level closing code. The corrective action should also ensure that cases without any evidence of legal advice are deselected and not reported in the CSR. To assist in focusing this effort towards the limited exceptions noted, LSNV could use examples extracted from some of the cases cited above in its communications with staff.⁵⁴

Comments to the DR stated that managing attorneys, in the review of to-be-closed cases, would confirm that the proper closing code has been used and that cases without any evidence of legal advice will be deselected. In a September 6, 2012 email update, the LSNV ED stated that the case closing oversight process is now fully developed and in the process of being fully implemented. This communication explained that some managers have already fully engaged the new protocols, while others are still working towards full implementation.

In addition, comments stated that staff members have been trained on the proper use of closing codes, and that this issue will be included in the next training planned for September 2012. Comments also noted that the *LSNV Kemps Case Management Manual for Case Handlers* explains in detail the proper use of closing codes, and that an electronic copy of LSC's *Case Service Report Handbook* is available to all staff on the LSNV share drive.

Finding 11: LSNV is in non-compliance regarding the requirements of CSR Handbook (2008 Ed.), § 3.3 (Timely Closing of Cases) due to several dormant or untimely closed cases identified in the sampled cases.

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice or limited action (CSR Categories A and B), should be reported as having been closed in the grant year in which the case was opened. *See* CSR Handbook (2008 Ed.), § 3.3(a).⁵⁵ There is, however, an exception for limited service cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2008 Ed.), § 3.3(a). All other cases (CSR Categories F through L, 2008 CSR Handbook) should be reported as having been closed in the grant year in which the recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2008

⁵⁴ In a telephone call on August 17, 2012, the LSNV ED stated that the case samples discussed in the DR are being used as part of the development of the substantive training content for the September 2012 staff training.

⁵⁵ The time limitation of the 2001 Handbook that a brief service case should be closed "as a result of an action taken at or within a few days or weeks of intake" has been eliminated. However, cases closed as limited action are subject to the time limitation on case closure found in CSR Handbook (2008 Ed.), § 3.3(a) this category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions with other parties. More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Closure Category L (Extensive Service).

Ed.), § 3.3(b). Additionally LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3).

Case sampling evidenced several groups of cases that were highly dormant, yet were reported untimely in the 2010 CSR. In addition there were currently open cases that also appeared to be very dormant. Although most sampled cases were closed in a timely manner, the existence of the exception cases evidences non-compliance with the requirements of CSR Handbook (2008 Ed.), § 3.3(a). These exception cases indicate that some staff appears to have an incorrect understanding of LSC timeliness rules and/or proper coding of cases for deselection. As such, there is a need for further staff instruction, and related oversight, regarding proper case closing timeliness.

A factor that lessens the overall significance of the non-compliance is that most of the problem cases involved inherited files, with the long delay occurring prior to when LSNV became an LSC recipient on January 1, 2010. Also, avoidance of this problem for the future should be simple, as further dormant cases can be easily identified; and with proper deselection coding, any additional inherited cases that are dormant should be easily excluded from future CSR reports.

In addition, the exception cases, both closed and open, indicate a need for improvement of open case review. A critical element of open case review is to identify, at regular intervals, possible dormant cases and to either resolve the dormancy or close and deselect the file.

Cases Dormant for Extended Periods

The most significant pattern identified involved several sampled cases that became dormant several years ago, prior to LSNV becoming an LSC recipient. The only compliance error made by LSNV was allowing such cases to be coded as LSC reportable when closed, and then subsequently including such cases in the 2010 CSR report.

Several cases had been open from a few to many years with the files indicating that the last legal advice was also provided well in the past. For example, in Closed 2010 Case No. CVA040924, the case was opened in September 2004, and contained a September 24, 2004 entry stating that there was a “new hearing date” pending. No further action was taken until an advocate noted that a hearing was never held and the matter was dropped. It was then untimely closed in June 2010, and incorrectly included in the CSR. One (1) group of dormant closed cases appeared to have involved extended service.⁵⁶ Other very dormant cases appeared to have involved only a

⁵⁶ In addition to the case discussed above, four (4) other similar cases were: Closed 2010 Case No. DWA050914 opened in September 2005, with a last active entry in October 2006 indicating a Circuit Court Order of Nonsuit. No further action was indicated until it was closed in September 2010; Closed 2010 Case No. DWR060706 opened in July 2006, with a last active entry also in July 2006 indicating that the advocate had provided an answer form for a court matter on the day the case was opened. No further action was indicated until it was closed in June 2010; Closed 2010 Case No. NTI031104 opened in November 2003, with a last active entry in March 2005 indicating a court ruling in the case. No further action was indicated until it was closed in April 2010 at which time the advocate wrote a summary of the case; and Closed 2010 Case No. JUR080417 opened in April 2008, with a last active entry in July 2008 describing case status. No further action was indicated until it was closed in January 2010.

limited service level, usually “A.”⁵⁷ Finally, there were other “A” level cases, open for a shorter period, but nonetheless still dormant when closed.⁵⁸ All of the above case types lacked any notation or evidence in the case file or ACMS describing why the file should remain open, as set forth by CSR Handbook (2008 Ed.), § 3.3(a)(ii). Such cases should have been simply deselected from CSR reporting. It is very possible some very dormant cases may have been administratively closed prior to the merger, and that these cases again appeared again as open due to the ACMS data conversion, which is a limited transitional issue. The solution is to carefully identify such dormant cases and exclude them from future CSR reporting.

Open Dormant Cases

In addition to the closed dormant cases reported in the 2010 CSR, there were other similar cases noted in the open cases sampled.⁵⁹ These open cases, and any cases like them, are of increased importance to the extent any non-compliant reporting in a future CSR can be avoided. When dormant cases are closed, they should be uniformly deselected and not included in a CSR.

Also, the existence of several highly dormant cases in both open and recently closed case lists, raises clear concerns regarding the frequency and effectiveness of open case review.

PAI Closure Rule

A few PAI referral cases also indicated dormancy and timely closing issues. For example, Closed 2010 Case No. MLE070910, opened in September 2007, proceeded as a referral to PAI. The case was closed in June 2010 as a “B”; however, the “B” level of service reflected in the file (preparation of legal documents) was sent to the client in 2008. Under LSC CSR rules, PAI cases can be reported in the calendar year after the last service was conducted. As the above file did not evidence any service since March 2008, the last year for timely reporting would have been in 2009 (when LSNV was not yet an LSC recipient). Reporting of such a case in 2010 was untimely. PAI cases need to be frequently monitored to ensure whether the case is still active, or

⁵⁷ These cases were all closed as “A” in 2010 despite being opened several years ago, and with the assistance being provided around the time of case opening, or as indicated: Closed 2010 Case No. DJA-040301 opened in 2004; Closed 2010 Case No. AMA-070820 opened in 2007; Closed Case No. SRO-051003, with casework completed in 2006; Closed 2010 Case No. CSM-051005 with casework completed in 2007. There was also one (1) similar 2011 “A” level file. See Closed 2011 Case No. YTE-070112 opened in 2007.

⁵⁸ These cases were all closed as “A,” and were left open for the periods indicated after the advice had been provided: Closed 2010 Case No. IGA-090115 in which the client received advice at the time the case was opened 12 months before it was closed; Closed 2010 Case No. CRU-090228 open for 22 months; Closed 2010 Case No. 09E-1042387 closed 12 months after work was completed; and Closed 2010 Case No. 09E-1038537 closed 16 months after work was completed.

⁵⁹ Open potentially dormant cases were: Case No. EJA080702 (opened in July 2008, with a May 2009 entry indicating that more information was requested from the client, and with no subsequent action indicated); Case No. VKH070730A (opened In July 2007, with an October 2009 entry indicating a rescheduled hearing date, and with no subsequent action indicated); Case No. 09E-28000850 (opened in August 2009, with an October 2009 entry regarding case status, and with no subsequent action indicated); Case No. REL090224 (opened in February 2009, with an August 2009 entry regarding case status, and with no subsequent action indicated); and Case No. RWE080818 (opened in August 2008 with an April 2009 regarding case status, and with no subsequent action indicated).

should be closed.⁶⁰ LSNV staff responsible for PAI case closure should ensure that future PAI cases are reported in a timely manner and, if necessary, deselected from reporting if untimely. As discussed *infra*, it is noted that improvement regarding pro bono case oversight was begun at the time of the review in October 2011 under the direction of the new PBC.

Corrective Action

The DR directed that LSNV must ensure that cases are closed in a timely manner so that the CSR reflects current and accurate case information. The DR directed that LSNV should:

- Assess the dormant exception cases discussed in this report and determine whether certain offices or practice groups require targeted instruction regarding timely case closing or proper deselection of cases; and
- Review all remaining open cases that were inherited on January 1, 2010 to ensure that the cases are active and should remain open. Dormant cases should be closed and deselected from CSR reporting.

To address concerns about the adequacy of open case review process, the DR requested that LSNV review the current open case review process and make any necessary changes to ensure that dormant cases are regularly identified in an ongoing manner. This periodic review for potentially dormant cases should allow for more of these cases being closed when they are still considered timely under LSC rules.

Comments stated that LSNV staff members have received several trainings on the timely closing of cases and that this will again be addressed in the upcoming September 2012 staff training. LSNV noted that staff members also have access to LSC's *Case Service Report Handbook* is available to all staff on the LSNV share drive. LSNV also stated that although some offices have a higher rate of error when it comes to timely case closing and deselection, that the program believes that additional training for the entire staff will be the most effective approach to this issue.

Comments to the DR stated that over the past several months, LSNV has been instituting a process by which immediately prior to the monthly "inventory" days, that all managing attorneys use the Kemps stale/dormant case report function to provide each of their supervisees with a report on that case handler's cases that do not contain any record of recent activity, with the instruction to review all of those cases and take any appropriate action (such as closing or deselection). Subsequently, the review of managing attorneys of all to-be-closed cases will serve to double check any cases that have not been timely closed.

Finally, comments added that LSNV is in the process of reviewing all open case that were inherited on January 1, 2010 in order to confirm that such cases are active and should remain open and that this review should be completed in the near future.

Program comments regarding the above-required corrective actions indicated that sufficient measures are being implemented to address these items.

⁶⁰ For example, In Open Case No. 09E-1041268, opened in October 2009 with an October 2009 notation that the case would be referred to PAI, contained no further evidence of case status until closed in March 2011.

Finding 12: Extensive testing of potentially duplicate sampled cases evidenced substantial compliance with CSR Handbook (2008 Ed.), § 3.2. LSNV correctly reports multiple unique cases, and does not report duplicate cases, as directed by the CSR Handbook.

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.), § 3.2.

When a recipient provides more than one (1) type of assistance to the same client during the same reporting period, in an effort to resolve essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient may report only the highest level of legal assistance provided. *See* CSR Handbook (2008 Ed.), § 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.), § 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.), § 6.4.

In the advance case lists provided by the program, there were a number of cases closed in the same year for the same client name. To test the CSR Handbook rules regarding both avoidance of duplicate case reporting, and accurate multiple cases reporting, several sets or groupings of cases, (from two (2) to four (4) cases) were tested solely as to whether unique cases were present or whether duplicate case issues were raised.⁶¹ Over 20 sets of cases were part of the targeted sampling. In addition, the general case sample was also tested for potential case duplication.

The targeted testing, across several LSNV offices, evidenced that LSNV practices in this area are highly effective. When one or more unique cases are present, as per CSR Handbook rules, the appropriate number of cases was reported. Also, when two (2) or more cases should be reported as a single case, only one case was reported. In the multiple cases tested, LSC rules were appropriately applied regarding the correct reporting of more than one case, where required, and the avoidance of duplicate cases. LSNV is in substantial compliance with the requirements of CSR Handbook (2008 Ed.), § 3.2 regarding duplicate cases.

LSNV provided no comments to this finding.

⁶¹ For example, three (3) cases for the same client, Closed 2010 Case Nos. 10E-0004952, 10E-0004951, and 10E-00049582, represented three (3) clearly distinct cases as follows: a consumer issue, drafting a power of attorney, and drafting a will, respectively. Other sets of cases tested also evidenced that each case was not a duplicate, and should be reported as a unique case under LSC CSR Handbook guidelines. For example, *see* Closed 2010 Case Nos. 10E-26000359, 10E-26000400, and 09E-26003904 representing three (3) distinct cases for the same client; Closed 2010 Staff Case No. SAU051014 along with three (3) additional cases, represented four (4) distinct cases for the same client; and Closed 2010 Case Nos. 10E-32000860 and 10E-32004514, both with problem code “2,” that represented two (2) distinct cases for CSR reporting purposes.

Finding 13: The review indicated that LSNV is in compliance with 45 CFR Part 1604 (Outside practice of law).

This part is intended to provide guidance to recipients in adopting written policies relating to the outside practice of law by recipients' full-time attorneys. Under the standards set forth in 45 CFR Part 1604, recipients are authorized, but not required, to permit attorneys, to the extent that such activities do not hinder fulfillment of their overriding responsibility to serve those eligible for assistance under the Act, to engage in pro bono legal assistance and comply with the reasonable demands made upon them as members of the Bar and as officers of the Court.

LSNV provided no advance list of any staff attorneys who conducted any outside practice under 45 CFR Part 1604. The lack of any information resulted in an advance telephone call with the LSNV ED. The ED confirmed that there were no instances of outside practice to report for 2010 and 2011 as of September. Discussions with staff during the review indicated no awareness of any LSNV attorneys engaged in the unauthorized outside practice of law.

There is one part-time attorney who does conduct outside legal practice, which is fully permissible due to the attorney's part-time status.

LSNV provided no comments to this finding.

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

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

The review of LSNV's accounting and financial records for the review period evidenced no activities raising any compliance issues with the requirements of 45 CFR Part 1608. Review of LSNV's cash disbursement records (check registers) indicated no noticeable payments or contributions to a political party or association, the campaign of a candidate for public or party office or for use in advocating or opposing a ballot measure, initiative or referendum. There were no contributions of the program's grant funds or resources found to support or promote political activities or interests, indicating compliance with 45 CFR §§ 1608.3(b) and 1608.4(b).

Discussion with program management, intermediaries, and other staff including attorneys and local office directing attorneys evidenced no staff awareness of any program or staff activities that would violate Part 1608. Program management stated that neither LSNV nor any of its employees have been, or are involved in any political activities as specifically prohibited by Part 1608. Also, sampled cases indicated no prohibited activities under Part 1608.

Materials, both created by LSNV or others, and made available to the public in offices or on the program's web page, were reviewed. Numerous publications produced by LSNV or other non-profit organizations, as made available to the public at LSNV offices were obtained at LSNV offices. In addition, LSNV website informational materials, including pamphlets, manuals and other documents were reviewed.⁶² All materials reviewed evidenced no content that raises any concerns or questions with 45 CFR Part 1608. Further, generalized web searches on standard search engines regarding LSNV produced no information to indicate that LSNV has been involved in activity restricted by Part 1608.

LSNV provided no comments to this finding.

Finding 15: A limited review of fiscal records, sampled cases and interviews with staff evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

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

Recipients may provide legal assistance in such cases where the case has been rejected by the local lawyer referral service, or two (2) private attorneys; neither the referral service nor two (2) private attorneys will consider the case without payment of a consultation fee; the client is seeking, Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the ED has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and 1609.3(b).

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

⁶² The website review included all informational materials, including 14 topical areas under the "Useful Information" and all items under "Glossary of Legal Terms." However, the approximately 120 publications under a Foreign Language website tab were not all reviewed. This tab contains publications in 14 different languages: Amharic, Arabic, Chinese, Farsi, French, Japanese, Korean, Polish, Russian, Spanish, Somali, Tigrinya, Ukrainian, and Vietnamese. The titles of these publications mirror the titles of English publications available in such topics as family law, consumer, bankruptcy, Medicaid, and AIDS. A small sample of the foreign language documents were compared to English versions pamphlets. This sample review indicated that these foreign language materials appear to be the same information as the English publications, and as such, would raise no Part 1608 concerns.

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.

LSNV has appropriately received fees in 2010 and 2011 for cases that were opened when it was a non-LSC program and not under any prior attorneys' fees restrictions or requirements. From a limited review of the cash receipts log, chart of accounts, general ledger, financial statement, and interviews with staff it was determined that from January 1, 2010 through June 30, 2011, LSNV was in compliance with 45 CFR Part 1609. PLAS, the LSC recipient that merged with LSNV as of January 1, 2010, did not have any cases that requested attorney fees that were transferred to the new merged LSNV. LSNV did have cases open from when it was a non-LSC program that requested fees, and some of these cases transferred to the new merged recipient on January 1, 2010. These cases were not under any fee requirements or prohibition at the time opened, as they were with a non-LSC recipient. According to LSNV accounting records, for the time period of the review, attorney fees were awarded and received for six (6) cases totaling \$7,428.

No sampled files involved legal assistance with respect to a fee-generating case that raised compliance issues with Part 1609. In addition, program management and program staff interviewed were aware of the requirements of Part 1609 regarding acceptance of attorneys' fees cases.

LSNV provided no comments to this finding.

Finding 16: A limited review of financial records, and interviews with fiscal and management staff evidenced compliance with the requirements of 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity). Limited review revealed that, from January 1, 2010 through June 30, 2011, LSC and non-LSC funds were used in accordance with various Part 1610 requirements. However, LSNV did not fully comply with the notification requirements of 45 CFR § 1610.5 as necessary notifications had been sent only to individual donors, and not to all relevant funders.

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* 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).

The regulations provide that the other organizations may not receive any LSC funds, and no LSC funds may be used to subsidize restricted activities. “Subsidize” includes a payment of LSC funds to support, in whole or in part, a restricted activity conducted by the other organization, or a payment to another organization to cover overhead, in whole or in part, relating to a restricted activity. (*See* 62 Fed. Reg. 19398 (April 21, 1997)).

LSNV's policies and procedures and review of sample fiscal activities, identified no instance where the recipient had used non-LSC funds for any purpose prohibited by the LSC Act. LSNV communicates its policies and procedures by providing staff training, having staff meetings, and continual reinforcement of the policies and procedures by sending out global emails to staff regarding these policies.

A limited review of the general ledger, cash disbursement journals, cash receipts journals, chart of accounts, and vendor list for the period of January 1, 2010 through June 30, 2011, along with inspection of the LSNV web page, interviews with staff and management, and physical inspection of program offices, identified no restricted activity that would raise 45 CFR Part 1610 compliance issues.

A review of the cash receipt and disbursement journals for the review period identified no inappropriate transfers (45 CFR § 1610.7) or expenditures (45 CFR § 1610.4) by the recipient of its LSC and non-LSC funds. During the review period, LSNV transferred a portion of its Legal Services Corporation of Virginia (LSC-VA) funding to the Legal Aid Justice Center pursuant to 45 CFR § 1610.4.

LSNV's cost allocation methodology for direct costs is based on costs allocated to a particular grant to the degree that costs were incurred to achieve the objectives of the grant. Costs that are fund specific are allocated directly to the relevant funding source at the transaction level when entered into the accounting software. These costs include, but are not limited to: the RLS subgrant; fundraising costs; Department of Justice grant partners; and travel reimbursement for HIV outreach. The operating cost allocations are allocated based on (1) individual grant document/budget specifications, and (2) staff location. Operating costs that are not allocated under (1) or (2), above, are allocated to LSC, LSCV, and other funding sources based on percentage of revenue to total revenue. These operating cost calculations are normally generated in an Excel spreadsheet. Journal entries are then prepared to record the allocations to the relevant funding sources. At a minimum, the allocations are entered into QuickBooks twice during the fiscal year. The first allocation is normally made for the period July – December, and the second allocation is made for the period January – June. At the time of the October 2011 review, LSNV had recently prepared calculations from July 1 - August 31, 2011, to reflect LSNV's financial activity as it relates to LSC's revenue and expenditures during this period.

The LSNV Board of Directors has certified compliance with 45 CFR § 1610.8(b) with the execution of the certification of program integrity.

Finally, funds received by the recipient from sources other than the Corporation are accounted for as separate and distinct receipts and disbursements in a manner as directed by 45 CFR Part 1610.9 regarding accounting. LSNV uses QuickBooks Premier Non-Profit Edition 2009 accounting software which has the capability of providing fund based accounting and/or cost accounting. LSNV uses a double-entry method for recording all transactions. A trial balance is prepared monthly, after all adjusting and closing entries have been posted. Further, the LSNV Chart of Accounts has been developed so that non-LSC funds are accounted for as separate and distinct receipts and disbursements.

45 CFR § 1610.5 states that no recipient may accept funds 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. For the sample review period of January 1, 2010 through June 30, 2011, the cash receipts log, chart of accounts, general ledger, financial statements, grant agreements, and written notifications (thank-you letters) were reviewed. LSNV received funding from both federal and state governmental agencies, foundations, law firms, and individuals. This review evidenced that LSNV did not fully comply with the requirements of 45 CFR § 1610.5, in that the program did not provide the necessary written notification of the prohibitions and conditions which apply to the funds to all relevant contributors over \$250. LSNV staff stated that the generic donor notification letter was updated in December 2010 to include language informing the donors of LSC's requirements. However, it appears that LSNV only sent this letter to individual contributors.

The DR noted that two (2) corrective actions were necessary. First, in the future, LSNV should ensure that all funders contributing \$250 or more receive the required written notification of the prohibitions and conditions that apply to donor funds. Second, corrective action regarding 2010 donors was requested. Team members provided a list of the non-individual contributors from LSNV's 2010 annual audit and requested that LSNV provide donor notifications via thank you letters. With its comments to this DR, LSNV described actions that fully address these two (2) corrective actions. Comments stated that, since December 2010, the appropriate notification of donors, through a thank you notice format, has been in place and followed. For those persons or entities that gave \$250 or more during 2010, comments explained that of 58 such donors, new correspondence was necessary only for 29 persons or entities that had not subsequently given funds to the program. The other 29 donors had given a subsequent donation and were provided notice at the time of the second donation.

Finding 17: The review evidenced that LSNV is in compliance with the financial requirements of 45 CFR Part 1614 (Private attorney involvement). However, PAI case tracking and related CSR reporting requires improvement both for cases referred directly by LSNV and for cases handled through a subgrant with RLS.

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

Activities undertaken by the recipient to involve private attorneys in the delivery of legal assistance to eligible clients must include the direct delivery of legal assistance to eligible clients. The regulation contemplates a range of activities, and recipients are encouraged to assure that the market value of PAI activities substantially exceed the direct and indirect costs allocated to the PAI requirement. The precise activities undertaken by the recipient to ensure private attorney involvement are, however, to be determined by the recipient, taking into account certain factors. *See* 45 CFR §§ 1614.3(a), (b), (c), and (e)(3). The regulations, at 45 CFR § 1614.3(e)(2), require that the support and expenses relating to the PAI effort must be reported separately in the recipient's year-end audit. The term "private attorney" is defined as an attorney who is not a

staff attorney. *See* 45 CFR § 1614.1(d). Further, 45 CFR § 1614.3(d)(3) requires programs to implement case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the results desired by the client and the efficient and economical utilization of resources.

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.

LSNV has two (2) distinct PAI components. The first is conducted directly by LSNV for all parts of its service area, except those served by RLS. PAI efforts for the service areas served by RLS are conducted through a subgrant to that non-LSC program.

At the time of the October 2011 review, LSNV was in the final stages of having a new attorney transition fully into the PBC position. This new PBC made clear that she was studying the current systems for purposes of making necessary improvements.⁶³ As potential issues with PAI cases were identified during the review, the PBC was engaged with findings and suggestions. The review evidenced weaknesses regarding: the proper designation of certain cases as either PAI or staff; oversight and timely closing of PAI cases; and ensuring that PAI cases included in the CSR are properly documented as LSC eligible and are otherwise fully documented for CSR reporting.

Immediate response to this input by the PBC was observed during the October 2011 review week. By the end of review week, the PBC and a pro bono paralegal had commenced a review of all open PAI cases to identify any issues and to determine case status, dormancy or possibility for closure.

LSNV PAI Program (Excluding Rappahannock Region)

Potential cases for pro bono referral arise out of several sources, but most commonly, an applicant will contact one of LSNV's offices. LSNV employs trained intake staff at all locations to assess the legal needs of the client. Depending on the legal issue, the intake worker may place the client into several pro bono programs, such as: (1) Domestic Violence; (2) Foreclosure Legal Assistance; (3) Uncontested Divorce Clinics; (4) Bankruptcy Clinic; (5) Housing Clinic; (6) Consumer Clinic; (7) Freddie Mac Consumer Law Project; and (8) Employment Clinic. In certain circumstances, the intake specialist will determine that a client requires consultation with a staff attorney; after the consultation, the attorney may recommend a particular pro bono program or, in cases where the client's case has merit, but LSNV's resources cannot meet his/her needs, refer the case to the PBC for placement with a PAI attorney.

Once a case is identified for possible pro bono referral, clients are matched with an attorney after considering various factors such as substantive and practical expertise. LSNV maintains a

⁶³ The new PBC also welcomed LSC input and assistance in her efforts. Some contacts occurred after the review. The offer of OCE assistance is hereby repeated.

database of volunteer attorneys from which the pro bono referrals are commonly made. The LSNV PBC or a pro bono paralegal will refer most cases to private attorneys. A Managing Attorney or practice group attorney may also place pro bono cases. In these instances, the PBC is notified of the referral.

There is a uniform closing report that is sent to the attorney at the time the referral is made. Follow-up and oversight are conducted every two (2) months by letter to the PAI attorney, by telephone calls to the PAI attorneys and by contacting the client. However, case review evidenced numerous dormant PAI cases, indicating that this prior follow-up system was not sufficiently effective.

Review of sampled cases pro bono cases (referred by LSNV) evidenced that oversight and follow-up of the PAI cases must be improved, so as to meet the requirements of 45 CFR § 1614, as well as CSR Handbook requirements regarding timely and proper reporting of cases. A significant number of PAI cases sampled were defective, such as several cases lacking evidence of legal advice,⁶⁴ or not evidenced as financially eligible.⁶⁵ Case review also noted other related issues, such as cases mistakenly closed as a PAI case that should have been designated as staff cases. These can occur when additional PAI assistance was not obtained, and the case only contained legal advice by a staff member. There was also one sampled case coded as a staff case that was actually a PAI case. *See* Closed 2010 Case No. MLE070910. There were also some open PAI cases, including some inherited PAI cases that are likely dormant.

The new PBC stated that she had recently modified the PAI case closing procedure so that the PBC, an attorney, will now review and close all cases and assign LSC closing codes. This should assist in addressing the issues noted above.

The DR requested that LSNV take corrective action to improve the timeliness and accuracy of the reporting of PAI cases placed directly by LSNV. Comments to the DR stated that a “tickle” letter system has been implemented for seeking responses from pro bono attorneys to inform LSNV of the status of open cases. Comments stated that these “tickle” letters will be sent three (3) times during 2012 and the goal for 2013 and beyond is for these letters to be sent quarterly. Comments also stated that all PAI cases that are to be closed will first be reviewed by a managing attorney. Comments explained that this management review will help ensure accuracy in reporting of PAI cases, and this will include testing for dormant or stale cases.

⁶⁴ The following PAI cases were incorrectly reported in the 2010 CSR as a PAI case as they lacked any evidence of legal services provided by a private attorney: Closed 2010 Case Nos. SLY080107, YME-070831, 10E-0006511, AAS090429, RL0060814, 09-26001406, LST070924, and MW1050621. Some of these cases did have advice by an LSNV staff person and could have been correctly closed as a staff case in 2010. Also, there was one (1) similar PAI case identified lacking private attorney advice that was closed in 2011. *See* Closed 2011 Case No. 0E-001315.

⁶⁵ As also discussed in the section on income eligibility, several staff and PAI cases failed to have proper documentation to indicate that an over-income client was acceptable. The following PAI cases were incorrectly reported in the 2010 as the file evidenced the client as over-income with no waiver present: Closed 2010 Case Nos. 09E-104120, 10E-0007454, 10E-0003887, and 10E-0006038. Also, there was a similar case identified as closed in 2011. *See* Closed 2011 Case No. 11E-0019112.

Rappahannock Region PAI Program

In 2010 and 2011, LSNV provided two (2) subgrants for the Rappahannock region, to Rappahannock Legal Services (RLS): one subgrant of \$38,000 for traditional pro bono placement of cases; and a second subgrant of \$10,000 for materials production and other tasks.⁶⁶ RLS operates a main office in Fredericksburg, as well as a branch office in both Culpeper and Tappahannock. Each office is staffed with a pro bono coordinator. RLS utilized the \$38,000 subgrant to provide pro bono services to clients with cases that fall within RLS priorities, which included housing, consumer and family matters. RLS utilized the 10,000 subgrant to update a housing manual and provide uncontested divorce clinics.

OIG Finding Regarding Oversight of RLS Subgrant

Recommendation Six (6) of the September 2011 OIG final report regarding LSNV involved improved oversight of the RLS subgrants by LSNV. As part of the October 2011 CSR/CMS review, the relationship of RLS and LSNV was closely assessed so as to address the pending oversight issue referred by the OIG. Also, the review focused on ensuring that planned oversight systems for RLS will be sufficiently detailed to ensure that the LSC funds are effectively used for PAI-related services. In particular, the lack of any PAI cases being reported from the RLS subgrant was assessed to determine necessary required corrective action to ensure future reporting of PAI cases from this PAI subgrant.

This review indicated that the two (2) different RLS subgrants were somewhat outdated, and in need of reconsideration and redrafting. This was directly addressed in a joint meeting that included the Executive Directors of RLS and LSNV, the RLS pro bono coordinator, and three (3) LSC representatives. During this meeting, both RLS and LSNV management made clear that both programs strongly desired a continuation of the relationship and both parties were open to making subgrant term changes. At the time of the October 2011 review, RLS had a new Executive Director who clearly supported the goal of updating the subgrant terms, and ensuring clarity with LSC reporting requirements. Ultimately, a decision was made to modify the two (2) subgrants into one document, with an emphasis on direct client services. After the October 2011 review, LSNV subsequently created and submitted a single subgrant with RLS to LSC for approval for 2012, which was subsequently approved.

RLS PAI Case Reporting

The most significant PAI-related observation of the October 2011 review was that the PAI subgrant agreements with RLS were not resulting in any PAI cases being tracked and reported by LSNV in its CSR. The practice of not identifying and tracking certain RLS referral cases as PAI was inaccurate under CSR Handbook rules.

As background, RLS has been a PAI subgrantee of the LSC recipient program for the northern Virginia service area for many years. Prior to LSNV engaging in a subgrantee relationship with

⁶⁶ The \$10,000 subgrant provided that RLS will provide four (4) quarterly housing forums to be modeled on forums that RLS had conducted in Fredericksburg, Culpepper, and Tappahannock since 2004. This requirement was unclear, and this second subgrant was not well documented.

RLS, PLAS had a PAI subgrant with RLS. In the past, the reliability of case data involved with the RLS subgrant became of concern to LSC. To avoid such issues for the future, specific direction was provided to both LSNV and RLS staff during the review regarding the proper reporting of PAI cases.⁶⁷ The recommended detail regarding future LSNV-RLS case oversight is detailed below.

During the October 2011 review, this issue was discussed during interviews of both LSNV and RLS management and involved PAI staff of both programs. This review evidenced that there can and should be PAI cases reported by the RLS subgrant efforts. Discussions revealed that with the new case tracking systems to be adopted by both LSNV and RLS, there will be several proper PAI cases reported through RLS efforts. This case reporting will become part of a new oversight process, whereby ultimate results of PAI cases handled through RLS will be captured and reported. The end goal is that all appropriate PAI cases handled by RLS should be reported annually in the LSNV CSR as PAI cases. Further, cases referred to RLS that receive no further assistance, should be properly closed by LSNV as a staff case if some legal advice or service had been provided.

RLS' internal systems regarding oversight and management of its pro bono cases were assessed and found to be supportive of the future efforts to properly report PAI cases from the RLS subgrant. Importantly, RLS has an ongoing practice to obtain citizenship attestations for referred cases placed with a pro bono attorney. During the quarterly on-site visits to RLS by LSNV, in which some case sampling will occur, the presence of citizenship attestations for active cases should be tested so as to ensure that completed PAI cases could be included in the CSR.

The DR noted that LSNV must take corrective action to ensure that PAI cases handled through the RLS subgrant are tracked and reported to LSC as PAI cases, and that other cases referred to RLS, that contain legal advice by LSNV staff, are tracked as reported as staff cases. It is anticipated that the actions being planned by LSNV and RLS will address this corrective action requirement. To assist in ensuring success in this process, the following detail is provided.

RLS Actions

RLS should identify cases according to the different options, A through D below, and should adopt procedures that allow for necessary reporting to LSNV as described:

- A. Cases that are not accepted for further services by RLS, either direct or through a pro bono attorney, should be identified and communicated as such by RLS to LSNV;
- B. Cases that are accepted for service by an employee of RLS, with no possibility of involvement of a private attorney, should be identified and communicated as such by RLS to LSNV;

⁶⁷ The necessary reporting systems between LSNV and RLS, including the depth of periodic reviews of the subgrantee by LSNV were preliminarily addressed in the joint meeting held during the review. Further guidance was also provided as part of the LSNV rewrite and submission of the 2010 RLS subgrant.

- C. Cases to be handled by a volunteer staff lawyer⁶⁸ of RLS should be identified and communicated as such by RLS to LSNV. When this category of cases is completed, RLS should report the conclusion of the case to LSNV, and indicate: whether the file contains a citizenship attestation or indicates that eligible alien documentation was reviewed for non-citizens; whether the case contains legal advice by the volunteer staff lawyer; and the LSC closing code that best reflects the level of services provided by the volunteer staff lawyer;
- D. Cases being considered for potential pro bono placement by RLS should be identified and communicated as such by RLS to LSNV. When this category of cases is completed, RLS should report the conclusion of the case to LSNV, and indicate: whether the case contains legal advice by a pro bono attorney; whether the file contains a citizenship attestation or indicates that eligible alien documentation was reviewed for non-citizens; and the LSC closing code that best reflects the level of services provided by the pro bono attorney. If the pro bono placement was unsuccessful, RLS should also provide this information.

LSNV Actions

LSNV protocols regarding cases referred to RLS should include the following procedures and requirements:

1. LSNV should keep all referred cases open until receiving additional case information from RLS, as described above. All referral cases given to RLS and left open at LSNV should be identified by a unique “pending” code within the LSNV ACMS, dedicated to RLS referred cases;
2. For cases reported by RLS under categories “A” and “B” above, LSNV should take action to timely close the case within the LSNV ACMS. If a case contains legal advice provided by LSNV staff (done before referral of the case), and is otherwise fully eligible and documented as required, LSNV should include the case in the next LSC CSR as a “staff” case at the appropriate advice level.
3. For cases reported by RLS under categories “C” and “D” above, LSNV should keep the case on the open/pending case list until the RLS volunteer staff lawyer or pro bono attorney completes the service. At the time RLS reports the case is concluded, or will not proceed further, LSNV should take action to timely close the case within the LSNV ACMS, as follows:
 - i. If the case contains legal advice provided by a private attorney (whether it is a volunteer staff lawyer or pro bono attorney), and is otherwise fully eligible and documented as required, LSNV should include the case in the next LSC CSR as a “PAI” case at the level of service provided by the private attorney.

⁶⁸ The above distinction between two (2) types of private attorneys: a “pro bono” attorney and a “volunteer staff” attorney working at RLS offices was made so as to make clear that there are two (2) types of PAI cases that could be reported by RLS to LSNV that could qualify for reporting to LSC in the CSR. At the time of the October 2011 review, two (2) former RLS attorneys who had retired, maintained a case load on a volunteer basis and sometimes worked at RLS offices on these cases. As these attorneys fit the definition of a “private attorney” under LSC regulations, cases handled by them at RLS, if otherwise eligible and properly documented, may be considered PAI cases.

- ii. If the case does not contain legal advice provided by the volunteer staff lawyer or pro bono attorney, but was provided legal advice by LSNV staff prior to the referral, and is otherwise fully eligible and documented as required, LSNV should include the case in the next LSC CSR as a “staff” case at the advice level.⁶⁹
4. As part of the periodic on-site visits to RLS during the subgrant year, LSNV should specifically ensure that completed pro bono cases sufficiently document the legal services provided by the pro bono attorney, and that these cases also contain a citizenship attestation (or evidence of a proper documentation review for eligible non-citizens), so that these cases can be included in the CSR.

Comments to the DR explained that RLS is currently providing LSNV with two (2) types of reports: (1) monthly reports that reflect LSNV-referred cases that have been referred to pro bono attorneys, which also identifies cases that have not been referred; and (2) quarterly reports that provide the status of open PAI cases and also identifies those cases which have been now closed. Comments explained how enhancements to the monthly reports are being adopted so that these reports include additional information now only present in the quarterly reports. Comments also explained that cases not sent to a pro bono attorney by RLS will be closed by LSNV as a staff case, for purposes of CSR reporting, as these cases typically receive limited service by LSNV staff prior to referral to RLS. Finally, comments stated that LSNV is conducting quarterly in-person audits of case files at RLS in order to confirm that RLS’s pro bono referrals and file maintenance are consistent with the terms of the subgrant agreement and LSC regulations. LSC notes that the reporting and procedures in place, as described by the program’s comments, are consistent with the necessary improvements identified by LSC, and should, if followed regularly, address the underlying corrective action required.

PAI Fiscal Compliance

45 CFR Part 1614 requires that a recipient 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 audited financial statements. As LSNV utilizes a pro bono PAI model, PAI costs consist mostly of staff PAI time and allocated non-personnel costs based on allocation percentages derived from casehandlers PAI time to total casehandlers time.

As outlined in its accounting manual, LSNV requires casehandlers to document PAI time worked within the timekeeping component of case management. During the review, LSNV provided copies of its PAI cost allocation worksheets for 2010 and 2011, along with sample PAI time records. Review of PAI financial records, including applicable accounting records, PAI cost allocation worksheets and methodology statement, 2010 audited financial statements, and testing of sample time records evidenced that LSNV utilizes a financial management system that

⁶⁹ It should be noted that regular RLS staff may provide services on referred cases, and that such services are independent of the cases discussed in this section. For the cases in which further assistance is provided solely by regular, paid RLS staff, the case fits the category of a non-PAI case, and once notified, LSNV should proceed to close such cases as LSNV staff cases should legal advice and all appropriate documentation in the case is present. As noted above, however, cases handled by volunteer RLS staff who qualify as a private attorney under the LSC regulation, are more accurately identified as PAI cases once closed by the volunteer RLS attorney.

complies with LSC PAI accounting and financial reporting requirements, as outlined in 45 CFR § 1614.3(e). LSNV accurately identifies and accounts for its PAI costs, bases its PAI cost allocation on reasonable operating data (which is documented in the accounting manual), allocates PAI staff time for attorneys and paralegals based on time records, and properly reports its PAI revenue and expenses in its year-end audit report.

LSNV provided no comments to the above findings regarding PAI financial compliance.

Finding 18: Review of sampled financial records evidenced compliance with 45 CFR § 1627.4(a) (Subgrants and membership fees or dues). LSNV did not use 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.⁷⁰ 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).

45 CFR § 1627.4(a) requires 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.

Review of fiscal records for a sample 18 month period of January 1, 2010 through June 30, 2011, including analysis of the chart of accounts, invoices, cash disbursement journals, and general ledger showed no payments using LSC funds for any membership fees and dues. LSNV paid mandatory professional membership dues and fees using non-LSC funds. The amounts paid in 2010 and 2011 were \$5,625 and \$5,750 respectively.

⁷⁰ 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.

45 CFR Part 1627.3(c) requires LSNV to be responsible for ensuring that its subgrantee, RLS, complies with the financial and audit provisions of the Corporation. Any funds delegated by a recipient to a sub-recipient shall be subject to the audit and financial requirements of the Accounting Guide. LSNV is responsible for ensuring the proper expenditures, accounting for, and audit of delegated funds. The delegated funds may be separately disclosed and accounted for, and reported upon in the audited financial statements of a recipient. Or, such funds may be included in a separate audit report of the sub-recipient. The relationship between the recipient and sub-recipient will determine the proper method of financial reporting in accordance with generally accepted accounting principles.

In an OCE desk review of the LSNV June 30, 2010 audited financial statements, it was determined that LSNV needed to ensure that its audit clearly and separately discloses and accounts for the delegated funds. By correspondence dated February 14, 2011, and an email dated February 24, 2011, LSNV was instructed to ensure that its audit discloses in its footnotes, the subgrant information required by 45 CFR § 1627.3(c). With its comments to the DR, LSNV was requested to provide an update regarding this instruction and whether the auditor has been informed of the need to ensure that the audit disclose the subgrant information required by 45 CFR § 1627.3(c). Comments to the DR stated that the auditor was informed of this instruction and in response the auditor pointed out that the (then) \$48,000 RLS subgrant was listed on page 13 of the audit under “contract services,” but the total for that category also included other contract services, such as the accountant and the outside payroll service. Comments also noted that page 20 of the audit report expressly described the \$48,000 that was paid under the subgrant. Comments reported the auditor’s intention to change the report to show the subgrant separate from “contract services.” LSC notes that this future action by the auditor should address the issue raised.

Finding 19: Review of LSNV’s timekeeping policies and procedures, and assessment of the automated ACMS time system indicated that LSNV has adequate systems and practices to comply 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 the 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 the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations.

LSNV uses the timekeeping component of its Kemps case management system to record time spent by its attorneys and paralegals on each case, matter, or supporting activity. In accordance with program policy, LSNV requires its casehandlers to create contemporaneous time records that account for time worked by date, client identifier and in increments not greater than one-quarter of an hour. For matters and supporting activity, time records must include information that identifies the category of action(s) on which the time was spent.

A sample of time records of all staff, for one payroll period, was conducted. The review evidenced that each entry appropriately contained a client name and/or case number and for matters or supporting activities, an identification of the category of action on which the time was spent was noted.

LSNV's time system comprises all of the efforts of attorneys and paralegals for which compensation is paid. Also, all of the records sampled documented the casehandlers' daily time recorded as meeting or exceeding the required 7.5 per day requirement.

45 CFR Part 1635 also requires that the recipient's timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type. As required, the LSNV ACMS has the ability to aggregate time record information on both closed and pending cases by legal problem type.

Finally, 45 CFR Part 1635 requires a recipient to ensure that certain part-time attorneys or paralegals (those who work part-time for the recipient and part-time for an organization that engages in restricted activity) do not use the recipient's resources for restricted activities. Interview of staff and program management, and review of sample financial records, indicated no such part-time attorneys or paralegals who work for another (restricted activity) organization.

LSNV provided no comments to this finding.

Finding 20: Compliance with 45 CFR Part 1642 (Attorneys' fees) was not applicable to this review, as the operative period of enforcement for this regulation ended prior to LSNV becoming a recipient on January 1, 2010.

Prior to December 16, 2009, except as otherwise provided by LSC regulations, recipients could not claim, or correct and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* 45 CFR § 1642.3. However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was lifted. Therefore, at its January 30, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees.

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

LSC further determined that it would 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).

As the effective period for enforcement of this regulation ended prior to LSNV becoming a recipient, there are no findings regarding this area. LSNV did receive some attorneys' fees since January 1, 2010, as discussed in the section on 45 CFR Part 1609, *supra*.

LSNV provided no comments to this finding.

Finding 21: Sampled cases, review of financial records and other documents, and other research evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

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.

45 CFR § 1612.10 addresses recordkeeping and accounting for activities funded with non-LSC funds. This section requires that: no funds made available by the Corporation shall be used to pay for administrative overhead or related costs associated with any activity listed in section 1612.6; recipients shall maintain separate records documenting the expenditure of non-LSC funds for legislative and rulemaking activities permitted by 1612.6; and recipients shall submit

semi-annual reports describing their legislative activities with non-LSC funds conducted pursuant to section 1612.6, together with such supporting documentation as specified by LSC.

Sampled cases, interviews with a sample of staff, and review of available program written materials and reports submitted by LSNV evidenced no activities that raise any concerns with the restrictions of Part 1612. Further, generalized web searches on standard search engines regarding LSNV produced no information to indicate that LSNV has been involved in activity restricted by Part 1612. Also, review of financial records for the period of January 1, 2010 through June 30, 2011 indicated compliance with 45 CFR § 1612.10 and that no legislative or rulemaking activities have been conducted by LSNV.

The LSNV ED explained that, prior to becoming an LSC recipient, the program did receive requests to conduct activities covered by Part 1612 but that the program only handled some of the actions, and determined that others should not be done by LSNV due to expertise or other considerations. The ED stated that no activities covered by Part 1612 have been conducted since January 1, 2010. The conversations with program management indicated that LSNV management is knowledgeable regarding the restrictions and requirements of Part 1612.

LSNV provided no comments to this finding.

Finding 22: Sampled cases and interviews with staff indicated 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.

No sampled cases involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction. Further, selected staff interviews indicated no awareness of any activities by LSNV or any staff member that would involve Parts 1613 and 1615 prohibited activity. Also, the ED stated that LSNV had not been involved in any work covered by Parts 1613 and 1615 since becoming an LSC recipient.

LSNV provided no comments to this finding.

Finding 23: Sampled cases and interviews with staff indicated no involvement in any class action, as prohibited by 45 CFR Part 1617 (Class actions).

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

“initiating or participating in any class action” as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).⁷¹

Discussions with program management indicated that LSNV has had no class action casework since becoming an LSC recipient. Selected staff interviews supported this, as no staff interviewed were aware of any class action work. Further, none of the sampled files reviewed involved initiation or participation in a class action.

Finding 24: Sampled cases and interviews with staff evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

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

Discussions with program management indicated that LSNV has had no redistricting work and further it was noted by staff that this type of case is not a program case priority. Staff interviews supported this, as no staff members interviewed was aware of any redistricting work by LSNV or any of its attorneys. Further, no sampled case involved any redistricting work.

LSNV provided no comments to this finding.

Finding 25: Sampled cases and staff interviews evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

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

Program management stated that LSNV has had no casework involving any eviction covered by Part 1633. Staff interviews supported this, as no staff interviewed was aware of any eviction representation that involves a client charged with, or convicted of illegal drug offenses. Finally, no sampled cases involved any representation prohibited by Part 1633.

LSNV provided no comments to this finding.

⁷¹ It does not, however, include representation of an individual seeking to withdraw or opt out of the class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate, or advise others about the terms of an order granting relief. *See* 45 CFR § 1617.2(b)(2).

Finding 26: Sampled cases and interviews with staff evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of Prisoners).

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

Program management stated that LSNV does not represent prisoners. Staff interviews supported this, as no staff interviewed was aware of any representation of an incarcerated person. Further, no sampled cases reviewed involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person evidencing that LSNV complies with Part 1637.

LSNV provided no comments to this finding.

Finding 27: Sampled cases and interviews with staff evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction, which prohibited LSC recipients and their staff from engaging a client, which it solicited.⁷² This restriction has been contained in all subsequent appropriations acts. This restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1: "This part is designed to ensure that recipients and their employees do not solicit clients."

Discussions with program management indicated that LSNV does not conduct solicitation of clients. Program management also stated that as an LSC recipient, LSNV has not handled, or been involved in, any case in which the program solicited a client. The program is involved in normal, permissible outreach and community education and publicity measures, but these do not involve soliciting clients. Interviews with staff also evidenced no awareness of any client solicitation by LSNV or any of its staff as covered by Part 1638.

No sampled files evidenced any solicitation of clients as prohibited by Part 1638. Also, documentation reviewed, such as community education materials and program literature indicated no client solicitation as covered by Part 1638.

LSNV provided no comments to this finding.

⁷² *See* Section 504(a)(18).

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

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

Program management and other staff interviewed stated that LSNV has had no work involving assisted suicide, euthanasia and mercy killing. Further, no sampled cases involved any such prohibited work.

LSNV provided no comments to this finding.

Finding 29: Sampled cases and interviews with staff 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.

Discussions with program management indicated that LSNV has had no casework regarding any of the prohibited case types listed above. Staff interviewed was unaware of any representation

regarding any of the prohibited case types listed above. Further, no sampled files involved any of the above statutory prohibitions.

LSNV provided no comments to this finding.

Finding 30: Assessment of LSNV internal control structure regarding segregation of duties, utilizing LSC's *Internal Control Worksheet*, evidenced a proper separation of duties.

The limited assessment of segregation of duties included review of: LSC's *Internal Control Worksheet* (as prepared by LSNV); LSNV's organization chart; LSNV's accounting manual (under related roles and responsibilities); interviews with selected staff; and observations of financial work assignments. *See also* Accounting Guide, Chapter 3, *Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System*.

The ED, hired by the board, is responsible for hiring competent staff and overseeing the appropriate procedures for ensuring the integrity of the LSNV financial accounting and reporting. The Program Administrator ("PA"), under the supervision of the ED, is responsible for developing financial procedures to properly document, record, and report financial transactions. The PA plays an important role in ensuring a proper segregation of duties in the finance department. The PA is responsible for: reviewing the work of the accountant as it relates to the reconciliation of all bank statements; overseeing personnel management; acting as the plan administrator over benefit plans; and orienting new employees on LSNV policies and procedures. The accountant reports to the PA and is responsible for the daily data entry involving financial transactions which consist of: recording deposits; processing check requests; processing payroll and 403(b) payments; assisting with the preparation of the budgets (capital & operating); preparing financial statements; and preparing audit reports. The program receptionist is responsible for maintaining the cash receipts log and opening the mail.

The assessment conducted evidenced that LSNV has proper segregation of duties. Adequate segregation of duties are in place for the handling of: cash receipts; check disbursements; petty cash; procurements; property; payroll; client trust accounts; general journal; and other general duties such as maintenance of accounting and procedures manuals, bond insurance, and protection against loss. LSNV has a small accounting department but has implemented proper controls to help mitigate any circumstances that would impact the safeguard of assets from waste, fraud, and inefficiency.

LSNV provided no comments to this finding.

Finding 31: A limited review of internal controls over cash receipts evidenced some significant exceptions regarding use of the cash receipts log.

LSC accounting guidelines regarding cash receipts discuss the need for various policy and practices to include procedures to ensure that cash received is properly handled, and that a cash receipts log and cash receipts journal be maintained. LSC guidelines further discuss the need

for: prompt deposit of cash receipts; procedures for reconciliation; and ensuring that checks and money orders be restrictively endorsed, among other items. See *The Accounting Guide*, Appendix VII, Section H, *Controls over Cash Receipts*.

A limited review of internal controls over cash receipts, including review of the cash receipts log, cash receipts journal, bank statements, general ledger, financial statements, and interviews with selected staff, evidenced some significant exceptions.

Review of the cash receipts log and of sampled records, evidenced that several cash receipts received in March and June of both 2010 and 2011 were not posted to the cash receipts log. An examination of the cash receipts log compared to the cash receipts journal evidenced that LSNV does not post all cash receipts (received in the main office and intended for the program operating account) to the cash receipts log. LSNV should record all cash receipts (other than client trust deposits), including electronic transactions, to its cash receipts log. To assist in this corrective action, LSNV should reconcile monthly the cash receipts log to its cash receipts journal. See *Accounting Guide*, Appendix VII, Section H7, H8, and L6c. According to LSNV policy, cash receipts/bank deposits are made at least once a week, or even daily, when feasible.

Also, a cash receipt received on February 3, 2010 in the amount of \$2,846 was entered in the case receipts log, but did not appear to be deposited until March 22, 2010. This issue was discussed with the LSNV ED after the on-site review and before issuance of this DR. The ED stated that the \$2,846 was a monthly grant payment, and that there were actually two (2) identical amounts received. It appears that the February and March 2010 payments both had an accounting error within LSNV records, such that two (2) separate payments appeared as only one (seemingly received in February and deposited six (6) weeks later in March). With its comments to the DR, LSNV was requested to provide additional information regarding these accounting errors. Comments to the DR stated that check No. 39058 in the amount of \$2,846, from the Northern Virginia Regional Commission (“NVRC”) dated January 28, 2010, was recorded in the cash receipts log on February 3, 2010 and deposited in LSNV’s back account on February 4, 2010. Comments explained that the second payment from NVRC for the same amount was dated March 26, 2010 and experienced two (2) clerical errors: it was not recorded in the cash receipts log; and the deposit was entered into QuickBooks as a March 22, 2010 deposit instead of the correct date of March 26, 2010.

Also, the review evidenced several cash receipts received designated for the client trust fund that were incorrectly posted to the cash receipts log. According to LSNV policies and procedures, the program receptionist opens all mail and enters into a receipts log any checks or money orders that are not for the client trust account. Checks or money orders intended for deposit into the client trust account are to be given by the receptionist to the PA for separate handling. The funds in question had been subsequently identified and then deposited to the appropriate client trust account. LSNV should follow its policy and ensure that deposits received for the Client Trust Account are promptly given to the PA for correct handling.

Finding 32: A limited review of internal controls over cash disbursements identified several deficiencies indicating that LSNV has inadequate controls in this area.

LSC accounting guidelines regarding cash disbursements discusses the need for: written accounting policies and procedures that describe the accounting system and assure that similar transactions are processed consistently; Board adopted policy addressing the disbursement methods allowed; independent persons who will regularly and consistently review supporting documentation; appropriate controls to assure that payments are made only for allowable items of costs; and other practices such as appropriate filing and document marking when an item is paid. *See Accounting Guide, Appendix VII, Section G, Controls over Cash Disbursements.*

An examination of sampled fiscal records indicated that LSNV has inadequate controls over cash disbursements due to several issues noted. The disbursement registers for the LSNV Wachovia and BB&T bank accounts were sorted in check number order for the period of January 2010 thru August 2011. Review of these documents evidenced the following:

- Three (3) check numbers were out of order and not printed in sequential order. *See* 20021, 20039, and 20301.
- Several voided checks were not listed individually on the disbursement register. Voided checks were sometimes grouped and unexamined.⁷³ *See* 21531-21561 and 1178-1180.
- Four (4) duplicate check numbers appear to have been used to pay the same or different payee. *See* 21337, 21434, 21435, and 21513. One of these (21513) was issued and disbursed from the Wachovia Bank account check stock but then also appeared on the BB&T disbursement register as an increase to the cash balance.⁷⁴
- Two (2) check numbers were missing from the disbursement register. *See* 21108, 21629 and 21487.
- A wrong check number was listed on the disbursement register for a manual check that was disbursed. This was identified through comparison of the disbursement register and the actual payment involved. *See* 21435.
- One check was disbursed and then voided but then cleared the bank. This disbursed and then voided check also failed to have a stop payment placed on the check. *See* 21434.
- Two (2) checks could not be located. *See* 21108 and 21487. Additional review was conducted using the August 31, 2011 Wachovia Bank Statement to determine if the two (2) checks that could not be located, ever cleared the bank account. The two (2) checks did not clear the bank account on that statement. The PA stated that this bank account was closed on September 29, 2011. It is recommended that LSNV review its final Wachovia Bank statements to see if these two (2) checks discussed above ever cleared the bank account.

It appears some of the inadequate controls noted above in check preparation may be attributed to the issuance of manual checks. The accountant works part-time and when she is out of the

⁷³ The term “unexamined” in this context means that these voided checks were not used in preparation of the bank reconciliation.

⁷⁴ These potentially duplicate payments were discussed with the LSNV ED after the review, and before issuance of this DR. The ED researched the checks and stated that there was no evidenced of actual double payments being done with these checks, but that rather there appears to have been some accounting entry errors that made the checks appear as used more than once. With its comments to this DR, LSNV should explain each of the four (4) checks mentioned and should provide an assurance that in no instance was any check number actually used for two (2) payments that separately cleared any bank account.

office, checks can be manually processed and then are later processed into the accounting system.

According to LSNV policies and procedures, the following represents its cash disbursement process. An Accounts Payable Check Register is printed for all checks issued through the accounting system software. The checks, once printed, are placed in numerical order, matched to the relevant invoice(s), and reviewed for accuracy. The full check packet, along with the check register, is then presented to the ED or other authorized check signer for review and signature. The check signer initials the check register to signify that he/she has received and reviewed all of the checks listed on the check register.

LSNV should follow its procedures over cash disbursements as detailed in its policies and procedures. Further, LSNV should implement the following safeguard procedures in their check processing:

- Inventory both its stored and in-use check stock; and
- Establish a check numbering policy.⁷⁵

See Accounting Manual, Section 3-5.4(b), Check Preparation (Page 33).

As described in detail in the report section titled *Required Corrective Action*, comments to the DR described steps taken by LSNV to review and inventory its stored and in-use checks. Comments also detailed the process involved with receipt of new checks. Also, the LSNV ED, in an August 17, 2012 telephone call, indicated that the program would be adopting a check numbering policy, with the assistance of OCE.

Finding 33: A limited review of internal controls over bank reconciliations evidenced several deficiencies.

LSC accounting guidelines regarding bank reconciliations discusses the need for monthly bank account reconciliations and that the related procedures consider the following: determination of whether bank statements reconcile with the respective general ledger cash account; investigation and resolution of checks that have been outstanding for more than six (6) months; examination of voided checks (including that proper journal entries are made in the general ledger and check register for voided checks); comparison of checks with the check register including number, date, payee, amount, signatures and endorsements; and accounting for serial numbers of checks and other tests. Program procedures should also direct that bank statements are delivered unopened directly to the person preparing the reconciliation or a management official for review prior to reconciliation, and that a program's fiscal manager review and initial completed bank reconciliations. See Accounting Guide, Appendix VII, Section I, *Bank Reconciliation Procedures*.

A limited review of LSNV bank statements, bank reconciliations, disbursement registers, cash receipts journals, general journal entries, and the accounting manual, and interviews with

⁷⁵ In addition to the above two (2) required items, it is recommended that LSNV also adopt the following two (2) additional steps: to adopt a policy for destroying checks; and to establish manual check printing requirements.

selected staff evidenced some deficiencies in internal controls over bank reconciliations. Issues were noted either in relation to LSC's standards under the Accounting Guide and/or adherence to LSNV policies and procedures.

Statements from two (2) LSNV bank accounts were tested for bank reconciliation control procedures (Wachovia and BB&T). This review of bank statements and bank reconciliations evidenced that LSNV does not account for all checks in the accounting system, as some missing checks cannot be located. Also, the review of several bank statements from the Wachovia operating account determined that multiple checks were missing based on the sequential order of canceled checks that appeared on the bank statements (which are notated by an asterisk). LSC's review included a comparison between the canceled checks and missing checks from the bank statements and the disbursement registers. This review identified three (3) missing check numbers (21108, 21487, and 21629) that were never processed as live checks or noted as voided checks in the accounting system.

As noted in Finding 33, review of the disbursement register for the Wachovia and BB&T accounts evidenced that all voided checks are not listed individually, but are grouped and listed as a range of voided checks. This practice also affects internal controls over bank reconciliation. Further, these groups of checks were unexamined in the preparation of the bank reconciliation process – in other words, when conducting the bank reconciliation process, the voided checks were neither separately listed nor verified.

An examination of the disbursement register also indicated that it did not account for all checks. The disbursement register was sorted by check number order for the Wachovia and BB&T bank accounts. From that sort, it was determined that several checks were missing and could not be located in the accounting system or within the office.

A limited test of internal controls on LSNV investment statements evidenced that in December 2010, bank statement reconciliations for two (2) investment accounts (hardcopies) were not performed; however journal entries had been processed.

A review of five (5) LSNV bank statements tested for control procedures evidenced that the LSNV ED does not date all bank statement reviews. Bank statements should be signed and dated by the ED so as to verify when the statements were reviewed. Also, LSNV policy requires the ED or his designee to review canceled checks for unauthorized signatures, unusual endorsements, and other such matters as may come to his/her attention. As part of this ED review, it is recommended that missing checks should also be identified and resolved, as necessary.

Based on the above, LSNV should take corrective action to ensure that: all checks are accounted for, and processed, in the accounting software system so as to maintain an accurate record of used and unused checks; voided checks are listed individually and used as an aid in reconciling the bank statements; the ED signs and dates bank statements verifying when the statements were reviewed; and that hardcopy bank reconciliations are prepared monthly for all bank/investment accounts, regardless of whether a journal entry was prepared and processed. *See Accounting Guide, Appendix VII, Section I, Bank Reconciliation Procedures.* Comments to the DR stated

that the actions listed in this paragraph have been in place for some time and are all being currently done.

Finding 34: A limited review of sampled invoices and internal controls over purchasing identified some late fees and finance charges inappropriately charged to LSC funding.

The LSC Accounting Guide states a standard of having a “timely review and payment” of credit/debit/vendor charge account transactions and supporting documentation so as to validate disbursements and to avoid finance charges and late fees. *See Accounting Guide, Appendix VII, Section G3, Controls over Cash Disbursements – Credit/Debit Cards.*

Sampling of selected financial records, including all LSNV Staples invoices for Fiscal Years 2010 and 2011, evidenced late fees and finance charges being assessed. The fees or charges that allocated and charged to the LSC fund, as identified by the sample reviewed, were \$86.58 in 2010 and \$197.71 in 2011. Sampled Pitney Bowes invoices also found invoices being paid late, with *de minimis* finance charges applied.

In addition, a limited review of business credit card use by two (2) management staff was conducted. Several 2010 and 2011 invoices for the Bank of America *Platinum Plus for Business* account were sampled for January, February, March, and June 2010, and September 2011. This review evidenced that late fees and finance charges were assessed in September 2011; however credits were later received offsetting those charges. Comments to the DR further explained that the late fees and finance charges had been charged in error by Bank of America, which is why the bank subsequently refunded all of the late fees and interest charges.

Invoices and credit card statements should be paid in a timely manner so as to avoid finance charges and late fees. It is noted that LSNV has since begun to pay its credit card statements electronically.

Further, LSC funds cannot be used for payment of late fees and finance charges. *See 45 CFR § 1630.3.* LSNV must take corrective action to ensure payments of invoices are made on a timely basis, and to ensure that LSC funds are not used for any late fees and finance charges. Specifically, LSNV should:

1. Pay invoices within thirty (30) days, or otherwise in accordance with the terms of the invoices, so as to avoid finance charges and late fees;⁷⁶

⁷⁶ Arguably, whether or not LSC funds are involved, the payment of late fees and related charges that should have been avoided is a weakness in the purchasing and disbursement systems that should be corrected by the program. Comments to the DR explained how the late fees and interest charges discussed in this report involved unusual circumstances, such as delayed mail due to the change of administrative office location. Comments also set forth the LSNV practices involved with vendor payments, noting that vendor invoices are recorded when received and that checks are prepared 10 to 14 days before the due date. Comments also stated that regular monthly vendors including Staples and Pitney Bowes are paid electronically and that electronic payments are scheduled to arrive the day before the due date.

2. Research all invoices paid since January 1, 2010 to determine the total amount of LSC funds that were used to pay any late fees or finance charges due to late payments, to include the \$86.58 and \$197.71 noted in this report; and
3. Make an adjusting entry to reimburse the LSC account for the total amount of late fees or interest charges that were charged to LSC.⁷⁷

So that LSC can determine that complete corrective action has been taken, LSNV is requested to provide, with its comments to the DR, an explanation as to how it will accomplish implementation of Item 1 above. Also, with its comments LSNV should include any documentary evidence of the calculation under Item 2 that determined the total amount of LSC funds involved, and should attach copies of the adjusting entries made that evidence the reimbursement of the LSC fund under Item 3.

Finding 35: Review of policies and procedures, and related accounting regarding travel, evidenced adequate practices.

LSC accounting guidelines regarding travel directs that the recipient: have formal written travel policies; require adequate information and documentation (for example that lodging receipts and air fare tickets be received from the employee and board members before reimbursement for travel expenses is made); have adequate controls over the accounting for advances and reimbursement; require trip reports documenting the reasons and/or the results of the trip; and to ensure that proper funding source accounting. Also, before reimbursement the accounting office should review prior disbursements in order to avoid duplicate payments for the same expense. *See Accounting Guide, Appendix VII, Section F, Travel.*

Assessment of LSNV policies and procedures regarding travel, and sampling of related accounting records, evidence that LSNV has adequate practices regarding travel. LSNV has appropriate formal written travel policies outlined in its accounting manual in a section captioned “Expense Reimbursement and Per Diem” that are followed in practice. LSNV requires that adequate information and documentation in form of receipts and tickets be submitted from the traveler before reimbursement for travel expenses is made, and supervisor review of supporting documentation for propriety and proper allocation of expenses is required. Overall, program procedures compare favorably to the above detailed requirements.

LSNV provided no comments to this finding.

Finding 36: A limited review of LSNV internal controls over petty cash evidenced that LSNV has appropriate policies and procedures.

⁷⁷ Comments to the DR explained that LSC funds were not used for the \$197.71. Further, an adjusting journal entry was made to reimburse the LSC for the \$86.58 late fee charge. Comments also stated that there have been no additional late fees or interest charges. This is further detailed at the end of this report in the Required Corrective Action section.

LSC accounting guidelines for petty cash directs that the recipient have a board-approved policy, and that accounting procedures include restrictions on petty cash disbursements and reimbursement, require properly approved supporting data, be maintained on an imprest basis, and be primarily vested in only one person per program office with regard to access and physical control over the petty cash box. Also, cash receipts should not be commingled with the petty cash fund and the reconciliation of the petty cash bank account should be done by an employee independent of the petty cash custodian along with a periodic surprise count and be part of the annual audit. *See Accounting Guide, Appendix VII, Section K, Petty Cash Controls.*

From a limited review of the LSNV accounting manual, samples of petty cash disbursements and replenishments, and interviews with staff, it was determined that LSNV has appropriate procedures in place related to controls over petty cash. LSNV maintains an Imprest Petty Cash Checking Account that can only be used for litigation and emergency non-litigation purposes, and requires approved documentation prior to issuance of a check. The review indicated that petty cash checks are issued only in an emergency. Petty cash can be used to cover filing fees/court fees (that are not covered by client trust funds) which must be filed by a certain date and for which the main office may not be able to deliver a payment on time. Such use of petty cash allows LSNV to avoid a late charge or penalty for emergency costs or non-routine invoices that must be paid immediately.

Each LSNV office maintains an Imprest Cash Checking Account that was established with an initial balance of \$300. The Imprest Petty Cash Checking Accounts are to be used only for litigation and emergency non-litigation purposes, and requires approved documentation prior to issuance of a check. The Imprest Petty Cash Checking Accounts are not to be used to circumvent normal corporate purchasing procedures. The term “emergency” is defined as an instance when waiting for a check from the main office would be untimely and thus create a negative impact on LSNV operations. Expenditures over \$100 require appropriate Management approval from either a Managing Attorney (for litigation expenses) or by the PA (for operational expenditures). Petty cash accounts may not be used for travel advances, payroll advances, unapproved training, and normal monthly invoices that were not submitted to the accountant.

In order for a petty cash check to be issued, an approved Check Request Form (or an approved and coded invoice) must be furnished to an authorized petty cash check signer that describes the item or purpose for which the petty cash check is being requested. In order to have an Imprest Petty Cash Checking Account replenished, a completed and approved (signed) Re-Cap/Petty Cash Reimbursement Request form must be forwarded to the accountant, no later than the second work day following the end of the month.

LSNV provided no comments to this finding.

Finding 37: Review of sample financial records and related policies and procedures evidenced adequate practices regarding property. Also, a physical inventory of assets that are not fully depreciated should be completed.

LSC accounting guidelines regarding property state that property purchases should be recorded in property subsidiary record that includes several specified details of the property items, and that this record must agree with the general ledger property accounts. *See Accounting Guide, Chapter 3, Section 3-5.4(c), Cash Disbursements – Recordkeeping: Property Record.*

A review of LSNV accounting for property evidenced that program records and practices meet the above requirements. LSNV records its property acquisitions and donations in subsidiary accounting records that contain all necessary information. These records include: a description of the property item; the date acquired or donated; the original cost or fair value (if donated); the book value; the estimated life of the asset; and the depreciation method. Further, review of the subsidiary property records balance as of June 30, 2011 evidenced agreement with the balance of general ledger property accounts.

In its review of LSNV, the LSC OIG found that LSNV had not conducted a physical inventory and recommended one be taken. LSNV did not agree with the finding because most of its fixed assets are fully depreciated and have no book value. During the current review, the OIG recommendation was discussed with LSNV management. It was determined that LSNV should ensure a full physical inventory, and appropriate tagging, for those fixed assets, e.g., personal computer, laptops, computer peripherals, telephone equipment, that are not fully depreciated and have a book value. As part of this process, LSNV should consult its auditor as part of establishing a list of physical inventory that are not fully depreciated, so as to ensure that the fixed asset balance in the general ledger and financial statements will continue to match. LSNV should ensure a full physical inventory of all fixed assets that are not fully depreciated.

Further engagement of program management regarding property inventory occurred subsequent to the visit. As part of this, program management sought guidance regarding the level of detail and tagging necessary for certain assets that are fully depreciated. Assistance to the program regarding property inventory questions is currently ongoing.

Comments to the DR stated that the LSNV Technology Manager has been tasked with the project of establishing a subsidiary electronic file in which to record and maintain a list of all fixed assets, and to coordinate his efforts on a continuing basis with the LSNV accountant to ensure that the initial gross dollar valuations on the subsidiary electronic file are consistent with the figures recorded in the accounting software by the LSNV accountant. Comments stated that this project was ongoing due to two major office moves and that the project is anticipated to be completed by the end of 2012.

Finding 38: Review of sample financial records and related policies and procedures evidenced adequate practices regarding payroll.

LSC accounting guidelines regarding payroll directs that records should be maintained according to policies and procedures for controlling payroll payments and for compliance with applicable law. Specifically, the payroll register should list all payments to employees by name, check number, gross pay, withholdings and net pay, and employees should be provided gross and net information with payroll checks. The program's payroll procedures should also include the

following elements: approval of salary and wage rates by an authorized individual; maintenance of records documenting payroll expenses to accounts/funds/cost centers-and cumulative individual earnings and withholdings; supervisor's approval of individual employee attendance or time records; proper withholding of payroll taxes (evidenced by quarterly withholding reports – Form 941); and that payroll checks and approval of payroll adjustments are signed by persons independent of payroll preparation. LSC payroll accounting standards also require that each employee have a payroll/personnel file, and that payrolls should be disbursed from an imprest bank account restricted for that purpose. *See Accounting Guide, Chapter 3, Section 3-5.5 – Payroll.*

Review of LSNV payroll policies and procedures compares favorably with the LSC requirements. LSNV utilizes an outside payroll services (ADP) for periodic payroll and related tax processing along with payroll records. Adequate supporting documentation, such as time attendance and timekeeping records are also utilized.

LSNV provided no comments to this finding.

Finding 39: Review of sample financial records and related policies and procedures evidenced adequate practices regarding client trust funds.

LSC accounting guidelines regarding client trust funds requires policies and procedures for controlling client trust transactions including receipts, disbursements, and reconciliation. Further, accounting records should be maintained to account for individual balances for each client. *See Accounting Guide, Chapter 3, Section 3-5.7, Client Trust Records.*

Assessment of LSNV policies and procedures regarding client trust funds indicate that they meet the LSC requirements. The accounting manual clearly describes the specific controls to be maintained over client trust funds including adequate supporting documentation necessary for client trust fund receipts and disbursements. Further, LSNV has established methods to determine the client trust account balances. The program's accountant maintains individual client trust balances within the LSNV accounting system, and the Managing Attorney at each branch maintains individual client trust balances within the case management system. On a monthly basis, the program accountant reconciles client trust balances with the applicable bank accounts and transaction documents and adjusts the general ledger accounts accordingly.

As discussed, *supra*, it is noted that due to some accounting errors, a few client trust receipts had been incorrectly first recorded to a general program fund. When this mistake was discovered, these amounts were promptly entered into the proper client trust account records.

LSNV provided no comments to this finding.

IV. RECOMMENDATIONS⁷⁸

Consistent with the findings of this report, it is recommended that LSNV:

- Adopt a group eligibility policy to guide staff regarding this specialized type of intake;
- Instruct intake staff as to the appropriate circumstances wherein an over-asset application should not be immediately rejected, but should be directed towards management for a waiver consideration;
- Communicate to staff involved in case closing, that closing category “K” is only for CSR reportable cases. Further, it is recommended that cases closed with “K” in the future receive a second review to ensure accuracy so that only appropriate cases are included in the CSR;
- Encourage use of closing code “X” for any case lacking legal advice, so as to provide additional coding of cases that should not be reported in the CSR; and
- As part of the ED review of bank statements, it is recommended that missing checks should be observed and resolved, as necessary.

⁷⁸ Items appearing in the “Recommendations” section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE’s experience, could help the program with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors.

By contrast, the items listed in “Required Corrective Actions” must be addressed by the program, and will be enforced by LSC.

V. REQUIRED CORRECTIVE ACTION

Consistent with the findings of this report,⁷⁹ LSNV was required to take the following Required Corrective Actions (“RCA”) in the DR. Upon issuance of this FR, several of the RCA presented in the DR are now closed, and require no further reporting by LSNV. However, where LSNV described new policies and procedures that have been adopted, and may be periodic or ongoing in their application, the program should ensure that the corrective action noted continues in operation.

Other RCA below remain open and will be the subject of follow-up to be conducted by OCE.

1. ACMS-Related Corrective Action

- Remove the option of “other” as a factor/expense for over-income clients; and
- Provide additional direction and oversight for staff regarding proper coding of cases in the ACMS. In particular, the program should provide particular emphasis and targeted oversight to: the proper designation of cases as staff or PAI at case closing; and the proper practices regarding funding source identification of cases;

Comments to the DR stated that “other” has been removed, as directed.

Regarding bullet two, comments to the DR described an ongoing and evolving program commitment to training and oversight for both staff and cases. In particular, these comments noted that the month after the October 2011 review staff training was conducted, and that staff training is also being planned for September 2012. Comments made clear that topics involved with this RCA were addressed in training. Comments also detailed a case oversight process, and administrative “inventory days” in which staff focus on case oversight and proper documentation. This system includes targeted substantive case review sampling for attorneys with less than one year of experience. Finally, comments stated that LSNV is in the process of implementing a system by which every case, at the time of case closing, will be reviewed by a managing attorney. In a September 6, 2012 email update, the LSNV ED stated that the case closing oversight process is now fully developed and in the process of being fully implemented. The September 6, 2012 communication explained that some managers have already fully engaged the new protocols, while others are still working towards full implementation. LSNV should notify LSC (by simple email contact to the team leader and the

⁷⁹ As mentioned in certain report sections, several of the required corrective actions (“RCA”) listed here are targeted and sometimes highly limited. In such instances, there was a high level of compliance by LSNV such that comprehensive corrective action is neither warranted nor necessary. In such areas, the review may have observed systems or steps already in place by LSNV that had been, or would be, addressing any required changes. For example, CA-6 below only requires two (2) relatively simple actions regarding closing code compliance – the first involves a one-time additional written instruction for staff, and the second adds an emphasis for the program’s ongoing case review and case closing systems to identify two (2) areas for improvement. The actions required are specific and limited as the level of compliance was high, and LSC identified no need for the program to take comprehensive corrective actions in this (such as global review of all cases, or significant staff training).

OCE Director) when the new closed case review system has been fully implemented by all offices.

The comments make clear that LSNV has provided additional direction and will be implementing oversight as requested by bullet two of this RCA and that appropriate systems are in place for the future.

Due to the above described actions, the first item of this RCA is closed. The second item will be left open for purposes of LSC obtaining further information regarding full implementation and operation of the new management review of to-be-closed cases.

2. Eligibility

- Ensure that in instances where an applicant's household income is between 125-200% of FPG, that case acceptance is based on exceptions authorized under 45 CFR §§ 1611.5(a)(3) and (a)(4) and that LSNV keeps such records as may be necessary to inform LSC of the specific factors relied on to make such a determination. Further, cases lacking such evidence should not be included in the CSR and should not be charged to LSC funds; and
- Ensure that cases over the assets level either have a waiver in the file, or are not included in the CSR and should not be charged to LSC funds;

Comments to the DR described processes in the ACMS, and through oversight systems being implemented, that will address the items above. Comments stated that: staff has received training on both of the items above, and both will be included in upcoming training. Also, in a new system being implemented, when managing attorneys review to-be-closed cases, they will specifically review to ensure the above requirements.

Comments detailed the ability of the ACMS to assist with proper documentation of factors for cases between 125-200% of FPG. First, the eligibility screen lists the allowable factors and records a specific dollar amount for any allowable expense. As a safeguard, there is an error box in the ACMS that requires staff to confirm that expenses have been appropriately entered. Importantly, if no allowable factors/expenses have been entered, the ACMS will not allow the case to be identified as LSC funded (a checkbox used to identify LSC funded cases will not allow the checkmark for cases between 125-200% of FPG in the absence of allowable factors/expenses.

Comments also discussed the need for an assets waiver in those cases that exceeded the standard assets level. LSNV will be using the affirmative selection of the "CSR Eligible" option to ensure documentation of a decision to serve any such client.

Based on the use of the "CSR Eligible" option for acceptance of any over-assets clients, the second part of this RCA will be closed.

The first part of this RCA, regarding cases between 125-200% of FPG, will be left open for purposes of LSC obtaining further information regarding full implementation and operation of the new management review of to-be-closed cases.

3. Part 1626 Compliance

- Ensure that citizenship attestations are obtained when required. Further, for non-citizens, LSNV must ensure that appropriate eligibility documentation is reviewed, and that this review is evidenced in the file;
- Obtain the required document or evidence of document review in any open case lacking the necessary level of documentation under Part 1626. This should include any inherited cases that remain open and active; and
- Charge the full costs of any Part 1626 exception case (in which full documentation under Part 1626 is not ultimately obtained or reviewed) to a non-LSC funding source. Such cost calculations should begin at case acceptance, or for inherited cases, should begin at January 1, 2010;

Comments to the DR described actions that have been taken to address the above three components of this RCA, as well as ongoing processes and future actions, that will work to ensure compliance with the documentation requirements of Part 1626.

Comments detailed that staff have received training on the documentation requirements regarding citizenship and eligible non-citizens, and that training will again occur in a training to be held in September 2012. In addition, the LSNV intake manual, accessible to all staff, contains instructions and checklists to assist in proper screening under Part 1626. In addition to ongoing intake practices that support proper screening and documentation, as described by the comments, LSNV also noted that the review by managing attorneys of all cases at time of case closure will also serve to confirm that the Part 1626 process has been done properly.

LSNV comments also stated that staff members have been thoroughly trained on making sure that cases that should not be billed to LSC are not charged to LSC funds. Further, comments stated that proper cost allocation is reviewed during periodic file reviews and during case file closing reviews.

Regarding the item above regarding currently open cases, comments to the DR stated that in total LSNV has made three (3) comprehensive efforts to obtain/review the Part 1626 documentation for open cases that lacked such documentation. LSNV stated that the third such effort, done as part of the program's response to the DR identified no such remaining cases.

Based on the actions described, all three (3) elements of this RCA are closed.

4. As part of both ongoing open case oversight, and closing case review, assess whether retainer agreements, when required, are present and properly executed;

Comments to the DR stated that the proper execution and maintenance of retainer agreements would be a standard part of the review by managing attorneys of all to-be-closed files. Comments also noted that training on this issue has been conducted, and will continue to be conducted at periodic trainings conducted for staff. Finally, comments noted that the LSNV Legal Work Management Guidelines provides clear direction for staff regarding the retainer requirement. Also, in an August 17, 2012 telephone call with visit team leader, the LSNV ED added that open case oversight reviews also include testing for retainers, were applicable. The LSNV ED also stated that when case review identifies an office or practice group with an issue pattern that such group would receive targeted attention, as needed, through its managing attorney, as directed by upper management.

The actions above, in combination, should be successful in identifying cases, and patterns of cases, that need enhanced client retainer practices. This item will be left open for purposes of LSC obtaining further information regarding full implementation and operation of the new management review of to-be-closed cases.

5. PAI Cases

- Adopt new and ongoing efforts designed to ensure that PAI cases in which assistance occurred document the assistance and that any PAI case reported in the CSR includes clear evidence of legal advice that supports the level of legal service (closing code) reported;
- Improve the timeliness and accuracy of the reporting of PAI cases placed directly by LSNV; and
- Ensure that PAI cases handled through the RLS subgrant are tracked and reported to LSC as PAI cases, and that other cases referred to RLS, that only contain legal advice by LSNV staff, are tracked and reported as staff cases;

Comments to the DR stated that LSNV has drafted, and is in the process of implementing, a new closing/tracking form that clarifies the closing information that is needed by including an abbreviated version of the CSR definitions of closing categories. The form also requests that the pro bono attorney record a description of the case that supports the closing category selected.

Comments also stated that a “tickle” letter system has been implemented seeking responses from pro bono attorneys that will inform LSNV of the status of open cases. Comments stated that these “tickle” letters will be sent three (3) times in 2012 and the goal for 2013 and beyond is for these letters to be quarterly.

Comments also stated that all PAI cases that are to be closed will first be reviewed by a managing attorney. Comments explained that this management

review will help ensure accuracy in reporting of PAI cases, and this will include testing for dormant or stale cases.

Finally, comments to the DR explained that RLS is currently providing LSNV with two (2) types of reports: (1) monthly reports that reflect LSNV-referred cases that have been referred to pro bono attorneys, which also identifies cases that have not been referred; and (2) quarterly reports that provide the status of open PAI cases and also identifies those cases which have been now closed. Comments explained how enhancements to the monthly reports are being adopted so that these reports include additional information now only present in the quarterly reports. Comments also explained that cases not sent to a pro bono attorney by RLS will be closed by LSNV as a staff case, for purposes of CSR reporting, as these cases typically receive limited service by LSNV staff prior to referral to RLS. Finally, comments stated that LSNV is conducting quarterly in-person audits of case files at RLS in order to confirm that RLS's pro bono referrals and file maintenance are consistent with the terms of the subgrant agreement and LSC regulations. LSC notes that the reporting and procedures in place, as described by the program's comments, are consistent with the necessary improvements identified by LSC, and should, if followed regularly, address the underlying corrective action required.

The actions described in the program's comments directly address all three (3) elements of RCA-5, and if followed consistently, should address the required need for change. As the basic actions involving the third bullet of this RCA are fully in effect, this RCA item is closed. LSNV should complete its plans for further improvement of the monthly reporting format.

The first two bullets of this RCA will remain open for additional follow-through by OCE to discuss and assess how these new systems are operating in practice. In support of the additional follow-up by OCE, LSNV should provide a copy of the new closing/tracking form discussed above when it is fully finalized (by simple email contact to the team leader and the OCE Director).

6. Provide additional written instruction to staff, and heightened oversight of closed cases, to ensure proper use of closing codes, with an emphasis on ensuring that cases with higher levels of assistance use an appropriate higher level closing code. The corrective action should also ensure that cases without any evidence of legal advice are deselected and not reported in the CSR;

Comments to the DR stated that managing attorneys, in the review of to-be-closed cases, would confirm that the proper closing code has been used and that cases without any evidence of legal advice will be deselected. In addition, comments stated that staff members have been trained on the proper use of closing codes, and that this issue will be included in the next training planned for September 2012. Comments also noted that the *LSNV Kemps Case Management Manual for*

Case Handlers explains in detail the proper use of closing codes, and that an electronic copy of LSC's *Case Service Report Handbook* is available to all staff on the LSNV share drive.

Based on the actions described as well as the availability of written instructional materials for all LSNV staff, this RCA is closed.

7. Timely Case Closing

- Review the current open case review process and make any necessary changes to ensure that dormant cases are regularly identified in an ongoing manner. Periodic review for potentially dormant cases should allow for more of these cases being closed when they are still considered timely under LSC rules;⁸⁰
- Assess the dormant exception cases discussed in this report and determine whether certain offices or practice groups require targeted instruction regarding timely case closing or proper deselection of cases; and
- Review all remaining open cases that were inherited on January 1, 2010 to ensure that the cases are active and should remain open. Dormant cases should be closed and deselected from CSR reporting;

The comments to the DR stated, that over the past several months, LSNV has been instituting a process by which immediately prior to the monthly "inventory" days, all managing attorneys use the Kemps stale/dormant case report function to provide each of their supervisees with a report on that case handler's cases that do not contain any record of recent activity, with the instruction to review all of those cases and take any appropriate action (such as closing or deselection). Subsequently, the review of managing attorneys of all to-be-closed cases will serve to double check any cases that have not been timely closed.

Comments stated that LSNV staff members have received several trainings on the timely closing of case and that this will again be addressed in the upcoming September 2012 staff training. LSNV noted that staff members also have access to LSC's *Case Service Report Handbook* is available to all staff on the LSNV share drive. LSNV also stated that, although some offices have a higher rate of error when it comes to timely case closing and deselection, the program believes that additional training for the entire staff will be the most effective approach to this issue.

Comments added that LSNV is in the process of reviewing all open cases that were inherited on January 1, 2010 in order to confirm that such cases are active

⁸⁰ LSC notes that some programs have utilized automated time records as one (1) effective method of identifying certain potentially dormant cases. Such a method periodically identifies cases lacking any staff time charges for a set period of time. For example, once every three months, a computer-generated list could be produced which identified all cases having no time charges during the past six (6) months. This list would then be reviewed to determine status of the case, and appropriate actions would be taken. When adopting such a system, it is recommended that one (1) of the periodic checks be conducted in November/December of each year so as to maximize the possibility of identifying cases that should be closed and reported in the current CSR year.

and should remain open and that this review should be completed in the near future.

The above detailed description of actions taken, actions underway, and the new emphasis on timely case closing as part of the periodic open case review and new closing case review should work in combination to address the issues noted with dormant cases. This item will be left open for purposes of LSC obtaining further information regarding the full implementation and operation of the systems described above. In support of this follow-up, LSNV should report to LSC (by simple email contact to the team leader and the OCE Director) when the review of all cases opened prior to January 1, 2010, as described above, is completed.

8. Ensure, going forward, that all funders contributing \$250 or more receive the required written notification of the prohibitions and conditions that apply to donor funds. Also, as a one-time action, ensure that all relevant funders since January 1, 2010 receive the written notice;

The comments to the DR described actions that fully address this CA item. Comments stated that since December 2010 that the appropriate notification of donors, through a thank you notice format, has been in place and followed. For those persons or entities that gave \$250 or more during 2010, comments explained that of the total of 58 such donors, that new correspondence was necessary only for 29 persons or entities that had not subsequently given funds to the program. The other 29 donors had given a subsequent donation and were provided the notice at the time of the second donation.

Based on the actions described, this RCA item is closed.

9. Cash Receipts

- Record all cash receipts (other than client trust deposits), including electronic transactions, to its cash receipts log. To assist in this corrective action, LSNV should reconcile monthly the cash receipts log to its cash receipts journal; and
- Follow its cash receipts policy and ensure that deposits received for the Client Trust Account are promptly given to the Program Administrator for correct handling;

Comments to the DR stated that the LSNV Program Administrator has undertaken the task of reviewing all electronic receipts that appear on the BB&T Operating Account, and recording them on the reverse side of the pages within the Cash Receipts Log. Comments stated that this task has been done back to January 1, 2012 and will continue on a monthly basis going forward. Comments detailed that the combined dollar amount of cash receipts recorded on both front and back sides of the involved pages comprising the receipts for each calendar month are then compared to the amount of deposits recorded each month on the BB&T

operating account statement to ensure that the total deposits recorded each month in the cash receipts log agree with the total deposits reflected on the respective monthly bank statement. Comments added that during the monthly bank reconciliation process, the total deposits for both the BB&T operating account and the cash receipts log will be compared to the cash receipts journal and general ledger to ensure agreement on an ongoing basis. Comments added that the retroactive review/reconciliation undertaken by the Program Administrator has revealed full agreement among all relevant cash receipts documentation systems since inception of the project.

Comments to the DR also stated that the relevant staff members have been reminded of the importance of following proper policies and procedures relating to the handling of cash receipts intended for deposit into the LSNV client trust account, most recently done by email dated July 19, 2012. Also, the LSNV ED, in a telephone call with LSC on August 17, 2012, added that LSNV conducted additional post-visit review in this area and importantly, no other such errors had occurred. The LSNV ED added that the program's Legal Work Management Guidelines also contains detailed client trust guidelines available for all staff. Finally, it was noted that the LSNV Program Administrator has provided oversight attention to this area to ensure that client trust funds are handled according to the program's policy.

Based on the LSNV's detailed comments regarding new procedures involving all cash receipts, including electronic transfers, this portion of this RCA has been addressed.

Regarding the second part of this RCA, in consideration of the program's comments and of the additional information provided by the LSNV ED, this portion of this RCA has been addressed.

Based on the above, this RCA is closed.

10. Implement the following safeguard procedures in check processing:
 - a. Inventory both its stored and in-use check stock; and
 - b. Establish a check numbering policy;⁸¹

Comments to the stated that the LSNV accountant and the program administrator reviewed and inventoried the available stock of stored and in-use checks, including any "starter checks" issued by a bank when a new account is established. Comments also explained that, because the available check stock is very limited, new checks are purchased approximately every six months. At the time of receipt, each box of new checks is reviewed by the LSNV accountant to ensure: accuracy of the corporation name and address; account number; Transit

⁸¹ In addition to the above two (2) required items, it is recommended that LSNV also adopt the following two (2) additional steps: to adopt a policy for destroying checks; and to establish manual check printing requirements.

/ABA Number; and check numbering sequence. The LSNV accountant also ensures that new checks, when ordered for a particular account, are consistent with the numbering sequence on checks previously used for that account.

Further, the LSNV ED, in a telephone call on August 17, 2012, indicated that a check numbering policy would be adopted, and sought LSC guidance regarding the policy. In the near future, OCE will provide technical assistance in development of this policy.

This RCA will remain open for development of a check numbering policy.

11. Ensure that: all checks are accounted for, and processed, in the accounting software system so as to maintain an accurate record of used and unused checks; voided checks are listed individually and used as an aid in reconciling the bank statements; the ED signs and dates bank statements verifying when the statements were reviewed; and that hardcopy bank reconciliations are prepared monthly for all bank/investment accounts, regardless of whether a journal entry was prepared and processed;

Comments to the DR stated that the above actions are all currently being done, and that these actions have been in place for some time.

As LSNV has stated that it is currently conducting actions discussed in this corrective action, this item appears to be substantially addressed. However, as this item relates to RCA-10, it will remain open for further discussions with program management regarding control of checks.

12. Ensure that payments of invoices and credit card bills are made on a timely basis, so as to avoid finance charges and late fees. Further, LSC funds should never be utilized for any late fees and finance charges. Related to this, LSNV should:
 - Research all invoices paid since January 1, 2010 to determine the total amount of LSC funds that were used to pay any late fees or finance charges due to late payments, to include the \$86.58 and \$197.71 noted in this report; and
 - Make an adjusting entry to reimburse the LSC account for the total amount of late fees or interest charges that were charged to LSC;

Comments to the DR stated that LSNV's review disclosed no further additional late fees or interest charges other than those discussed in this report.

Comments also stated that vendor invoices are recorded when received and that checks are prepared 10 to 14 days before the due date. Comments also stated that regular monthly vendors, including Staples and Pitney Bowes, are paid electronically and that electronic payments are scheduled to arrive the day before the due date.

Comments to the DR stated that vendor invoices are recorded when received and explained that the late fees totaling \$86.58 were assessed in early 2010 and were

from invoices that were sent to the prior LSC recipient, Potomac Legal Aid Society, at its old address. By the time the invoices were forwarded by the postal service to the merged program's new main address, they were already late. Comments also attached a copy of a journal entry to evidence that LSNV had reimbursed the LSC account for \$86.58.

Comments also stated that the \$197.71 of late fees from Staples in 2011 were not charged to LSC and the comments included copies of supporting documentation from the program's fiscal records. Comments explained that \$99.68 of the amount was allocated to the general ledger account "miscellaneous expenses" and that no LSC funds were allocated to any expense in this line item. The remaining \$98.03 was directly allocated to the "contributions" funding source, and not allocated to LSC. Comments also explained that \$39 of the amount was eventually credited as the related bill was received by the LSNV administrative office two days after the due date, causing the late payment. Comments also included related supporting documentation.

Based on the information provided and the representations made in the program comments, this item is closed. However, some additional supporting documentation related to this topic will be requested and examined as part of the post-report follow-through.⁸²

13. Conduct and maintain a physical inventory of all fixed assets that are not fully depreciated; and

Comments to the DR stated that the LSNV Technology Manager has been tasked with the project of establishing a subsidiary electronic file in which to record and maintain a list of all fixed assets that are not fully depreciated, and to coordinate his efforts on a continuing basis with the LSNV accountant to ensure that the initial gross dollar valuations on the subsidiary electronic file are consistent with the figures recorded in the accounting software by the LSNV accountant. Comments stated that this project was ongoing due to two (2) major office moves and that the project is anticipated to be completed by the end of 2012.

As the required processes are still underway, this RCA will remain open.

14. Share the fiscal related findings of this report with its auditor.

⁸² So as to help evidence the corrective action taken, LSNV was requested to provide, with its comments to the DR, an explanation as to how it will accomplish implementation of Item 1 above. Also, LSNV was asked to include any documentary evidence of the calculation under Item 2 that determined the total amount of LSC funds involved, and to attach copies of the adjusting entries made that evidence the reimbursement of the LSC fund under Item 3. The supporting documentation provided critically assisted in helping resolve this RCA. The remaining documentation which will be requested by separate communication, will involve the miscellaneous expense category so as to verify that LSC funds are not allocated to any expense in this line item.

Comments to the DR stated that the fiscal related findings of the DR had been shared with its auditor. Based on the action described, this RCA is closed.



July 27, 2012

Via E-Mail & Regular Mail

Lora M. Rath
Acting Director
Office of Compliance & Enforcement
Legal Services Corporation
3333 K Street, NW, 3rd Floor
Washington, DC 20007-3558

Re: LSNV Response to Draft OCE Report

Dear Ms. Rath,

I am in receipt of your letter of May 30, 2012 and the accompanying draft report on the Case Service Report/Case Management System Review that was performed at Legal Services of Northern Virginia (LSNV) by LSC's Office of Compliance & Enforcement (OCE) on October 11-14, 2011. We appreciated the review team's constructive, problem-solving spirit. That same spirit is reflected in your cover letter and in our subsequent dealings with OCE staff. Such a constructive approach gives us confidence that the issues that have been raised in the draft report can be addressed in a prompt and effective manner. (Indeed, most of them already have.)

I will address those issues as I respond to the draft report's various Recommendations and Required Corrective Actions:

Recommendations

Recommendation 1: Adopt a group eligibility policy to guide staff regarding this specialized type of intake.

LSNV Response: LSNV has no history of representing groups (at least according to the institutional memory of our current staff), and – given the make-up of our service area – we do not anticipate taking on such cases. However, we are open to modifying our policies and priorities should an appropriate case arise. Taking on such a case would be such a departure from current practice that it is extremely unlikely that the case would come to our attention via traditional intake methods.

justice for a better community

Main Office
6066 Leesburg Pike, Suite 500
Falls Church, Virginia 22041

703.778.6800 VOICE
866.534.5243 TOLL FREE
703.778.4790 FAX
www.lsnv.org

Recommendation 2: Instruct intake staff as to the appropriate circumstances wherein an over-asset application should not be immediately rejected, but should be directed towards management for a waiver consideration.

LSNV Response: In practice, our intake staff already understands the appropriate circumstances in which waiver consideration is appropriate. The LSNV intake manual is currently being updated to more fully address this issue. In addition, the topic of the appropriate circumstances for waivers was expressly addressed at the July, 2012 monthly meeting/training session of the intake team.

Recommendation 3: Communicate to staff involved in case closing that Closing Category K is only for CSR reportable cases. Further, it is recommended that cases closed with K in the future receive a second review to ensure accuracy so that only appropriate cases are included in the CSR.

LSNV Response: We have communicated with staff about the appropriate use (or lack thereof) of Closing Category K, and we already have a system in place by which any cases closed with K receive a second review to ensure accuracy.

Recommendation 4: Encourage use of Closing Code X for any case lacking legal advice, so as to provide additional coding of cases that should not be reported in the CSR.

LSNV Response: We already do this. However, reflecting the reality of the cases that we have handled, we actually put even more of a focus on ensuring that case handlers document the legal advice that has been provided so that cases which should be reported in the CSR are reported.

Recommendation 5: As part of the ED review of bank statements, it is recommended that missing checks be observed and resolved, as necessary.

LSNV Response: In reviewing bank statements, the ED now specifically looks for and inquires about any gaps in the sequence of check numbers listed on any given statement. As a practical matter, given the very high volume of checks that are written on our operating account, most – if not all – monthly statements for that account contain at least several gaps in the check number sequence as a result of factors like variations in the amount of time that it takes vendors to process payments.

Required Corrective Actions

Corrective Action 1: ACMS-Related Corrective Action

- Remove the option of “other” as a factor/expense for over-income clients; and
- Provide additional direction and oversight for staff regarding proper coding of cases in ACMS. In particular, the program should provide particular emphasis and targeted oversight to: the proper designation of cases as staff or PAI at case closing; and the proper practices regarding funding source identification of cases.

LSNV Response: We have removed the option of “other” as a factor/expense for over-income clients. With respect to the broader action of providing additional direction/oversight for staff, we take several distinct approaches to this. First, the LSNV Kemps Manual and the LSNV Legal Work Management Guidelines – both of which are available to all staff on our “share drive” – expressly address these issues. We also provide direction for staff on these issues at all-staff trainings. One such training, which was presented by OCE staff, took place in January of 2010. We did a follow-up training for our entire staff on funding source identification and a wide variety of other issues relating to file maintenance and the proper use of our ACMS (Kemps) in November of 2011. An additional all-staff training on these same topics is currently being planned for later in September of 2012. With respect to oversight, issues such as staff/PAI designation and funding source identification are expressly addressed during our monthly inventory days and periodic case file reviews. Prior to each monthly inventory day, the managing attorneys provide their supervisees with a list of their open files, flagging those cases that require attention. Attorneys use inventory days to catch up on their administrative file work and case file maintenance, including review of the Kemps electronic files to ensure that the cases are properly coded with the correct funding source, and contain other appropriate documentation for reporting purposes. In addition, substantive case file reviews occur on a quarterly basis for attorneys with less than one year of experience, and at least annually for attorneys with more than one year of experience. These reviews are a more in-depth examination of a representative sample of cases being handled by the attorney, with at least ten files being reviewed. In addition, we are in the process of implementing a system by which every case file will be reviewed by a managing attorney at the time that it is closed.

Corrective Action 2: Eligibility

- Ensure that in instances where an applicant’s household income is between 125-200% of FPG, that case acceptance is based on exceptions authorized under 45 CFR §§ 1611.5(a)(3) and (a)(4) and that LSNV keeps such records as may be necessary to inform LSC of the specific factors relied on to make such a determination. Further, cases lacking such evidence should not be included in the CSR and should not be charged to LSC funds; and
- Ensure that cases over the assets level either have a waiver in the file, or are not included in the CSR and should not be charged to LSC funds.

LSNV Response: Staff has received thorough training on this issue and we intend to address it again at an all-staff training that we are planning for later in September. Our ACMS (Kemps) helps us to effectively address eligibility for applicants who are between 125% and 200% of FPG. When one is doing an intake in Kemps, the Eligibility Screen specifically lists the allowable § 1611 expenses. The specific dollar amounts for each allowable expense are entered and saved in Kemps. As a safeguard, there is an error box in Kemps that requires the staff person to confirm that expenses have been appropriately entered. If they have not been appropriately entered, then Kemps will not allow the staff person to check the box charging this case to LSC funds. With respect to ensuring that over-assets cases that don’t have a waiver are not included in the CSR and not charged to LSC funds, Kemps requires the case handler to affirmatively select the “CSR Eligible”

box. The managing attorney who reviews the to-be-closed case will double check to make sure that this was done properly.

Corrective Action 3: Part 1626 Compliance

- Ensure that citizenship attestations are obtained when required. Further, for non-citizens, LSNV must ensure that appropriate eligibility documentation is reviewed, and that this review is evidenced in the file;
- Obtain the required document or evidence of document review in any open case lacking the necessary level of documentation under Part 1626. This should include any inherited cases that remain open and active; and
- Charge the full cost of any Part 1626 exception case (in which full documentation under Part 1626 is not ultimately obtained or reviewed) to a non-LSC funding source. Such cost calculations should begin at case acceptance, or for inherited cases, should begin at January 1, 2010.

LSNV Response: We do ensure that necessary attestations are obtained and that appropriate documentation is reviewed. Staff has received thorough training on this issue and we intend to address it again at an all-staff training that we are planning for later in September. In addition, the LSNV intake manual – which is accessible by all staff – addresses this issue in detail and contains a checklist of documentation that is acceptable for proving one’s immigration status. When an applicant appears in our office – either as a walk-in or subsequent to an initial telephone or online intake – they are asked to confirm their citizenship/immigration status, to sign an attestation (if appropriate), and – for eligible non-citizens – to produce the requisite documentary proof of immigration status for review. Managing attorneys who review to-be-closed case files will confirm that this process has been done properly.

On two separate occasions, LSNV staff has made a comprehensive effort to obtain or review the required Part 1626 documentation for open cases that lacked such documentation. As part of our response to this draft report, we have made a third effort to determine whether there are still any open cases that lack signed attestations or evidence of a review of required immigration documents. This third inquiry has not revealed any such open cases.

As stated above, staff has been thoroughly trained on making sure that cases that should not be billed to LSC are not billed to LSC. Proper cost allocation is reviewed during the periodic file reviews and during case file closing reviews.

Corrective Action 4: As part of both ongoing open case oversight, and closing case review, assess whether retainer agreements, when required, are present and properly executed.

LSNV Response: Staff have been trained on the issue of when retainer agreements are required. We intend to address this issue again at the training that we are planning for later in September. In addition, LSNV's Legal Work Management Guidelines explains in detail when retainer agreements are necessary and the importance of properly executing and maintaining such agreements. Managing attorneys who review to-be-closed case files will confirm that this has been done properly.

Corrective Action 5: PAI Cases

- Adopt new and ongoing efforts designed to ensure PAI cases in which assistance occurred document the assistance and that any PAI cases reported in the CSR include clear evidence of legal advice that supports the level of legal service (closing code) reported;
- Improve the timeliness and accuracy of the reporting of PAI cases placed directly by LSNV; and
- Ensure that PAI cases handled through the RLS subgrant are tracked and reported to LSC as PAI cases, and that other cases referred to RLS, that only contain legal advice by LSNV staff, are tracked and reported as staff cases.

LSNV Response: We have drafted and are in the process of implementing a new closing/tracking form. This form clarifies the closing information that is needed by including an abbreviated version of the CSR definitions of closing categories and asking the pro bono attorney for description of the case that supports the closing category selected. Additionally, a "tickle" letter system has been implemented seeking responses from pro bono attorneys that will inform LSNV of the status of open cases. Finally, all PAI case files that are to be closed will first be reviewed by a managing attorney.

The "tickle" letter system assists LSNV in receiving information regarding closed PAI cases in a timely manner. "Tickle" letters this year will be sent three times a year. The goal for next year and as an ongoing pro bono policy is for "tickle" letters to be sent quarterly. The inclusion of CSR definitions on the closing/tracking form assists both pro bono attorneys and LSNV staff in ensuring that accurate information is reported to LSC. Review of all to-be-closed PAI case files by a managing attorney helps ensure accuracy in reporting of PAI cases. Finally, as discussed in our response to Corrective Action 7 below, dormant (or stale) case reports from Kemps are being run for each case handler -- and for PAI cases -- just prior to each of our monthly Inventory days. This approach enables us to follow up with pro bono attorneys who have cases that have not had activity in them for 90 days; and possibly deselect as appropriate.

Pursuant to the terms of the subgrant agreement, RLS provides LSNV with two types of reports: (1) monthly reports that reflect LSNV-referred cases that have been referred to pro bono attorneys and those that haven't; and (2) quarterly reports that provide the status of open PAI cases and those that have been closed. (RLS's monthly reports contain information on cases that they have referred to pro bono attorneys and cases that their staff is handling, but those reports initially did not include information on LSNV-referred cases that were neither sent to pro bono attorneys nor handled by RLS staff. We are in

the process of getting them to add this additional information.) LSNV classifies cases that RLS places with pro bono attorneys as PAI cases and tracks and reports on the status of those PAI cases. For cases that RLS is not going to send to pro bono (either because they are going to be handled by RLS or nothing further is going to be done with them), LSNV will close them out as LSNV staff-handled cases with the closing code reflecting the highest level of service provided by LSNV – typically advice & counsel and sometimes brief service. Additionally, LSNV does quarterly in-person audits of case files at RLS in order to confirm that RLS's pro bono referrals and file maintenance are being done consistent with the terms of the subgrant agreement and LSC regulations.

Corrective Action 6: Provide additional written instruction to staff, and heightened oversight of closed cases, to ensure proper use of closing codes, with an emphasis on ensuring that cases with higher levels of assistance use an appropriate higher level closing code. The corrective action should also ensure that cases without any evidence of legal advice are deselected and not reported in the CSR.

LSNV Response: Staff have been trained on the proper use of closing codes, and we intend to address this issue again at the all-staff training that we are planning for later in September. In addition, LSNV's Kemps Case Management Manual for Case Handlers explains in detail the proper use of the various closing codes. (Also, an electronic copy of LSC's *Case Service Report Handbook* is available to all staff members on LSNV's "share" drive.) Managing attorneys who review to-be-closed case files will confirm that the proper closing code has been used and that cases without any evidence of legal advice will be deselected.

Corrective Action 7: Timely Case Closing

- Review the current open case review process and make any necessary changes to ensure that dormant cases are regularly identified in an ongoing manner. Periodic review for potentially dormant cases should allow for more of these cases being closed when they are still considered timely under LSC rules.
- Assess the dormant exception cases discussed in this report and determine whether certain offices or practice groups require targeted instruction regarding timely case closing or proper deselection of cases; and
- Review all remaining open cases that were inherited on January 1, 2010 to ensure that the cases are active and should remain open. Dormant cases should be closed and deselected from CSR reporting.

LSNV Response: LSNV staff has received several trainings on the timely closing of cases and this issue will be addressed again at the all-staff training that we are planning for later in September. (And again, the entire staff has easy access to the CSR Handbook on our "share" drive.) Although some offices have a higher rate of error when it comes to timely case closing and deselection of cases, it is our opinion that a thorough additional training for the entire staff will be the most effective approach to this problem.

Over the past several months, LSNV has been instituting a process by which immediately prior to our monthly "inventory" days, all managing attorney use Kemps' stale or

dormant case report function to provide each of their supervisees with a report on that case handler's cases which do not contain any record of recent activity. Case handlers are instructed to review all of those cases and take appropriate action (e.g., closing, deselection, etc.) on each of them. In addition, the review by managing attorneys of to-be-closed case files will serve to double check any cases that have not been timely closed.

We are in the process of reviewing all open cases that were inherited on January 1, 2010 in order to confirm that such cases are active and should remain open. This review should be completed in the near future.

Corrective Action 8: Ensure, going forward, that all funders contributing \$250 or more receive the required written notification of the prohibitions and conditions that apply to donor funds. Also, as a one-time action, ensure that all relevant funders since January 1, 2010 receive the written notice.

LSNV Response: We have ensured since December of 2010 that all donors contributing \$250 or more receive a "Thank You" letter that contains the required written notification about the restrictions. With respect to the 2010 donors who gave before we added the notification language to our "Thank You" letter, all but 29 of them gave us a subsequent donation and we, in turn, sent them a "Thank You" letter with the written notice. For those 29 who have not yet donated again, we have now mailed them a "Touching Base/Thank You" letter which contains the written notice.

Corrective Action 9:

- Record all cash receipts (other than client trust deposits), including electronic transactions, to its cash receipts log. To assist in this corrective action, LSNV should reconcile monthly the cash receipts log to its cash receipts journal; and
- Follow its cash receipts policy and ensure that deposits received for the Client Trust Account are promptly given to the Program Administrator for correct handling.

LSNV Response: The LSNV Program Administrator has undertaken the task of reviewing all electronic receipts that appear on the BB&T Operating Account, and recording them on the reverse side of the pages within the Cash Receipts Log. This task has been done retroactively since January 1, 2012, and will continue on a monthly basis going forward. The combined dollar amount of cash receipts recorded on both front and back sides of those pages (or portions thereof) comprising the receipts for each calendar month are then compared to the amount of deposits recorded each month on the BB&T Operating Account statement to ensure that the total deposits recorded each month in the Cash Receipts Log agree with the total deposits reflected on the respective monthly bank statement. During the monthly bank reconciliation process, the total deposits for both the BB&T Operating Account and the Cash Receipts Log will be compared to the Cash Receipts Journal and General Ledger to ensure agreement on an ongoing basis. The retroactive review/reconciliation undertaken by the Program Administrator has revealed full agreement among all relevant cash receipts documentation systems since inception of the project.

By way of an e-mail dated July 19, 2012, relevant staff were reminded of the importance of following proper policies and procedures relating to the handling of cash receipts intended for deposit into the LSNV Client Trust Account.

Corrective Action 10: Implement the following safeguard procedures in check processing:

- Inventory both its stored and in-use check stock; and
- Establish a check numbering policy.

LSNV Response: Working together, the LSNV Accountant and the Program Administrator reviewed and inventoried the available stock of stored and in-use checks, including any "starter checks" issued by a bank when a new account is established. Because the available check stock is very limited, new checks are purchased about every six months or so. Each box of new checks is reviewed, at time of receipt, by the LSNV Accountant to ensure accuracy of the corporate name and address, account number, and Transit/ABA Number, as well as the check numbering sequence.

The LSNV Accountant ensures that new checks, when ordered for a particular account, are consistent with the numbering sequence on checks previously used for that account.

Corrective Action 11: Ensure that: all checks are accounted for, and processed, in the accounting software system so as to maintain an accurate record of used and unused checks; voided checks are listed individually and used as an aid in reconciling the bank statements; the ED signs and dates bank statements verifying when the statements were reviewed; and the hardcopy bank reconciliations are prepared monthly for all bank/investment accounts, regardless of whether a journal entry was prepared and processed.

LSNV Response: We are doing all of these things and have been doing so for some time now.

Corrective Action 12: Ensure that payments of invoices and credit card bills are made on a timely basis, so as to avoid finance charges and late fees. Further, LSC funds should never be utilized for any late fees and finance charges. Related to this, LSNV should:

- Research all invoices paid since January 1, 2010 to determine the total amount of LSC funds that were used to pay any late fees or finance charges due to late payments, to include the \$86.58 and \$197.71 noted in this report; and
- Make an adjusting entry to reimburse the LSC account for the total amount of late fees or interest charges that were charged to LSC.

LSNV Response: Vendor invoices are recorded when received. Checks are prepared 10 days to 14 days before the due date. Regular monthly vendors including Staples and Pitney Bowes are being paid electronically. Electronic payments are scheduled to arrive the day prior to the due date.

The \$86.58 of late fees was assessed in early 2010. This amount was from invoices that were sent to PLAS at the old address and by the time the invoices arrived at this address, they were late. Attached is a copy of the journal entry to reimburse the \$86.58 in late fees.

The \$197.71 of late fees in 2011 from Staples charges were not allocated to LSC. Attached is documentation to support this. A total of \$99.68 of the charges was allocated to general ledger account "miscellaneous expenses." No LSC funds were allocated to any expense in this line item. These fees relate to one payment being made by the due date, but clearing the bank three days past the due date. The remaining \$98.03 was directly allocated to the funding source "Contributions" and not included in the LSC allocation. A total of \$39 of this charge was eventually credited after a call was made to Staples. As seen in the attached documentation, this particular bill was received at the Falls Church office two days after the due date and that is why it was paid late.

As indicated in the findings, the late fees and finance charges were charged in error by Bank of America in September 2011. They subsequently refunded all late fees and interest charges.

There were no additional late fees or interest charges.

Corrective Action 13: Conduct and maintain a physical inventory of all fixed assets that are not fully depreciated.

LSNV Response: LSNV's Technology Manager has been tasked with the project of establishing a subsidiary electronic file in which to record and maintain a list of all fixed assets that are not fully depreciated, and to coordinate his efforts on a continuing basis with the LSNV Accountant to ensure that the initial gross dollar valuations on the subsidiary electronic file are consistent with the figures recorded in the accounting software by the LSNV Accountant. At present, this is an ongoing project due to two major office moves. However, we anticipate that the project will be completed by the end of 2012.

Corrective Action 14: Share the fiscal-related findings of this report with its auditor.

LSNV Response: This has been done.

Additional Information Requested

1. **Queries to Produce CSR Case Lists:** In order to produce accurate LSC-eligible case lists, LSNV is now searching based upon the "CSR Eligible" field. We run this search on the user-friendly "front end" of Kemps, but then we also do a separate query on this same field on the administrative "back end" of Kemps. This second query enables us to confirm the case totals from the "front end" search, but it also provides us with a much

wider array of data about each case (from which we can do additional queries to double check that the cases are indeed CSR-eligible). We then save all of this case data from the "back end" search in an Excel file for future reference.

2. Research on Select Cases: The first case, 09E-21003741, should not have been deselected. It should have been closed out reflecting that we provided brief or limited service on the case. Regarding the five cases for which errors were noted as to the funding code designations (i.e., Jur080417, CVA400924, DWA050914, DWR060706 and 10E-0008913) each of these should have been marked as either Title III (of the Older Americans Act) or local government funding – and not LSC funding. The final case, 10e-0005261, should also have been coded as funded under Title III (and not LSC).

3. Prospective Income: After our most recent upgrade to our ACMS, we now have a question regarding prospective income that automatically populates in the notes section of our eligibility screen that our Intake Paralegals must complete. Moreover, to add a layer of redundancy, we also have an "error check" that requires the staff to affirmatively fill in a check-box on the eligibility slip to indicate that they have made an inquiry into the applicant's prospective income.

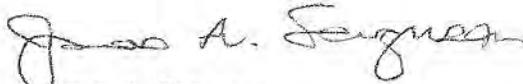
4. Accounting Errors: It is not clear to us what the report means by saying that these two distinct payments "appeared as one." Check No. 39058 in the amount of \$2,846.00 from the Northern Virginia Regional Commission (NVRC – our HIV/AIDS grant) was dated 1/28/10 and was recorded in our cash receipts log on 2/3/10 and deposited to the bank on 2/4/10. The second payment, also from NVRC and also for \$2,846.00, was on Check No. 39208 which was dated 3/23/10. This second check was deposited in LSNV's bank account on 3/26/10. There were two clerical errors regarding this second check: 1) it was not recorded in our cash receipts log, and 2) the deposit was entered into QuickBooks as a 3/22/10 deposit instead of 3/26/10. Documentation confirming all of this is attached hereto.

5. Subgrant Information in Audit: The auditor was informed of this pending instruction. In response, the auditor pointed out that the RLS subgrant was listed on Page 13 of the audit report under "Contract Services." The (then) \$48,000 of the subgrant was included under that heading, but the total for that category also included other contract services, such as the accountant and the outside payroll service. The auditor has stated his intention to change the report to show the subgrant separate from "Contract Services." (Page 20 of the audit report also expressly describes the \$48,000 that was paid under the subgrant.)

6. Thank You Letters to 2010 Donors: See reply above to Corrective Action 8.

Thank you again for your office's constructive approach to this matter and for your consideration of this response. I am available to provide any additional information or clarifications at your convenience.

Sincerely,



James A. Ferguson
Executive Director

*Corrective Action 12
Finding 3Y*

*see envelope
Rec'd 2 days after
due date*

0004786

that was easy

ACCOUNT SUMMARY 7972 9125 0330 5158

Previous Balance \$ 2,020.58
 Payments -\$ 2,020.58
 Credits -\$ 124.22
 Purchases +\$ 2,547.30
 Debits +\$ 0.00
FINANCE CHARGES +\$ 0.00
 Late Fees +\$ 0.00
 New Balance = \$ 2,423.08

Closing Date 08/12/11
 Next Closing Date 08/31/11
 Payment Due Date 09/06/11
 Current Due \$ 101.00
 Past Due Amount +\$ 0.00
 Minimum Payment Due -\$ 101.00

LEGAL SERVICES OF VIRGIN
 ACCOUNTS PAYABLE
 6066 LEESBURG PIKE STE 500
 FALLS CHURCH, VA 22041-2219
 Credit Line \$ 8,000
 Credit Available \$ 5,576

CURRENT ACTIVITY

View, Manage and Pay online @ <http://www.staples.accountonline.com>

Transaction Date	Location/Description	Amount
JUL 14	#9217627333-000-001 CHAMBERSBURG PA	
JUL 15	#3140753685-000-001 CHAMBERSBURG PA	256.93 ✓
JUL 15	#3140753685-000-002 MONTGOMERY NY	578.50 ✓
JUL 18	#3140753685-001-001 CHAMBERSBURG CREDIT	2.29 ✓
JUL 18	#3140753685-004-002 CHAMBERSBURG CREDIT	96.93 ✓
JUL 18	#3140761151-000-001 CHAMBERSBURG PA	25.00 ✓
JUL 18	#3140753685-003-002 MONTGOMERY N CREDIT	182.93 ✓
JUL 18	#3140753685-004-001 CHAMBERSBURG PA	2.29 ✓
JUL 18	#3140753685-001-002 CHAMBERSBURG PA	22.98 ✓
JUL 18	#3140753685-003-001 MONTGOMERY NY	82.93 ✓
JUL 20	#9217780221-000-001 CHAMBERSBURG PA	2.29 ✓
JUL 27	#3140809700-000-001 CHAMBERSBURG PA	330.66 ✓
		118.90

FINANCE CHARGE SUMMARY

REGULAR REVOLVE CREDIT PLAN	Current Billing Period				Previous Billing Period			
	Balance Subject to Finance Charge	Daily Periodic Rate	Days in Billing Period	ANNUAL PERCENTAGE RATE	Balance Subject to Finance Charge	Daily Periodic Rate	Days in Billing Period	ANNUAL PERCENTAGE RATE
	0.00	.05698	31	20.80	0.00	.05698	32	20.60

PAID
JAF

*they will credit late fee \$39.00
per call on 9/12/11*

This Account Issued by Citibank (South Dakota), N.A. CUSTOMER SERVICE 1-800-767-1291 FAX NUMBER 1-801-779-7425

Make checks payable to: **STAPLES CREDIT PLAN** Payment must be received by 5:00 p.m. local time on Payment Due Date.

Payment Due Date	New Balance	Minimum Payment Due	Amount of Enclosed Payment
09/06/11	\$ 2,423.08	\$ 101.00	\$ 2423.08 ✓

FOR PROPER CREDIT, PLEASE WRITE 7972 9125 0330 5158 ON CHECK AND ENCLOSE WITH THIS STUB.

Mail Payments to:

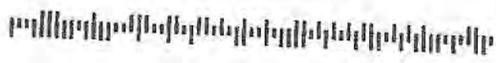
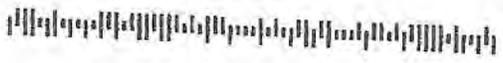
Dept. 91 - 2503305158
 STAPLES CREDIT PLAN
 PO BOX 689020
 DES MOINES IA 50368-9020

Make Address Changes Below

LEGAL SERVICES OF VIRGIN
 ACCOUNTS PAYABLE
 6066 LEESBURG PIKE STE 500
 FALLS CHURCH, VA 22041-2219

0000952

KSCL



7972912503305158024230800000000010100



0002166

that was easy

ACCOUNT SUMMARY 7972 9125 0330 5158

Previous Balance	\$ 2,423.08	Closing Date	09/11/11	LEGAL SERVICES OF VIRGIN ACCOUNTS PAYABLE 6066 LEESBURG PIKE STE 500 FALLS CHURCH, VA 22041-2219	
Payments	-\$ 0.00	Next Closing Date	10/12/11		
Credits	-\$ 0.00	Payment Due Date	10/06/11		
Purchases	+\$ 2,254.23	Current Due	\$ 199.00		
Debits	+\$ 0.00	Past Due Amount	+\$ 101.00		
FINANCE CHARGES	+\$ 59.03	Minimum Payment Due	-\$ 300.00	Credit Line	\$ 8,000
Late Fees	+\$ 39.00			Credit Available	\$ 3,224
New Balance	=\$ 4,775.34				

CURRENT ACTIVITY

View, Manage and Pay online @ <http://www.staples.accountonline.com>

Transaction Date	Location/Description	Amount
AUG 19	#3140934358-000-001 CHAMBERSBURG PA	107.71
AUG 25	#9218850008-000-001 CHAMBERSBURG PA	139.20
AUG 30	#3140985746-000-001 MONTGOMERY NY	19.99
AUG 30	#3140985746-000-003 MONROE TOWNSH NJ	32.97
AUG 30	#3140985746-000-004 LITHIA SPRING GA	11.99
AUG 30	#3140985746-000-002 CHAMBERSBURG PA	1,732.98
AUG 31	#9219035384-000-001 CHAMBERSBURG PA	82.44
SEP 8	#3141030969-000-001 CHAMBERSBURG PA	126.95

PAYMENTS, CREDITS, FEES, and ADJUSTMENTS
 SEP 6 LATE FEE
 SEP 11 *FINANCE CHARGE*

will be removed on next statement. 39.00
 59.03]

Financing
34

FINANCE CHARGE SUMMARY

REGULAR REVOLVE CREDIT PLAN	Current Billing Period				Previous Billing Period			
	Balance Subject to Finance Charge	Daily Periodic Rate	Days in Billing Period	ANNUAL PERCENTAGE RATE	Balance Subject to Finance Charge	Daily Periodic Rate	Days in Billing Period	ANNUAL PERCENTAGE RATE
	3,453.46	.05698	30	20.00	0.00	.05698	31	20.00

PAID
JAF

This Account Issued by Citibank (South Dakota), N.A. CUSTOMER SERVICE 1-800-767-1291 FAX NUMBER 1-801-779-7425

Make checks payable to: STAPLES CREDIT PLAN Payment must be received by 5:00 p.m. local time on Payment Due Date.

Payment Due Date	New Balance	Minimum Payment Due	Amount of Enclosed Payment
10/06/11	\$ 4,775.34	\$ 300.00	\$ 2352.26

FOR PROPER CREDIT, PLEASE WRITE 7972 9125 0330 5158 ON CHECK AND ENCLOSE WITH THIS STUB.

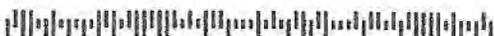
Mail Payments to:

Dept. 91 - 2503305158
 STAPLES CREDIT PLAN
 PO BOX 689020
 DES MOINES IA 50368-9020

Make Address Changes Below

LEGAL SERVICES OF VIRGIN
 ACCOUNTS PAYABLE
 6066 LEESBURG PIKE STE 500
 FALLS CHURCH, VA 22041-2219

0000439
 B
 XSCL



7972912503305158047753400101000030000



that was easy.

0002795

ACCOUNT SUMMARY 7972 9125 0330 5158

Previous Balance	\$ 4,775.34	Closing Date	10/12/11	LEGAL SERVICES OF VIRGIN ACCOUNTS PAYABLE 6066 LEESBURG PIKE STE 500 FALLS CHURCH, VA 22041-2219	
Payments	-\$ 4,775.34	Next Closing Date	11/11/11		
Credits	-\$ 39.00	Payment Due Date	11/06/11		
Purchases	+\$ 2,095.43				
Debits	+\$ 0.00	Current Due	\$ 87.00	Credit Line	\$ 8,000
FINANCE CHARGES	+\$ 32.13	Past Due Amount	+\$ 0.00	Credit Available	\$ 5,911
Late Fees	+\$ 0.00	Minimum Payment Due	-\$ 87.00		
New Balance	-\$ 2,088.56				

View, Manage and Pay online @ <http://www.staples.accountonline.com>

CURRENT ACTIVITY

Transaction Date	Location/Description	Amount
SEP 12	LATE FEE CR	39.00-
SEP 14	#3141063319-000-001 CHAMBERSBURG PA	176.43
SEP 16	#9219559684-000-001 CHAMBERSBURG PA	154.45
SEP 21	#3141104209-000-001 MONTGOMERY NY	19.99
SEP 21	#3141104209-000-002 CHAMBERSBURG PA	1,087.78
SEP 21	#3141104209-000-003 CHAMBERSBURG PA	28.99
SEP 26	#3141126118-000-001 CHAMBERSBURG PA	173.50
SEP 27	#3141134593-000-002 MONTGOMERY NY	21.99
SEP 27	#3141134593-000-001 CHAMBERSBURG PA	192.32
OCT 3	#9220044112-000-001 CHAMBERSBURG PA	239.98

FINANCE CHARGE SUMMARY

REGULAR REVOLVE CREDIT PLAN	Current Billing Period				Previous Billing Period			
	Balance Subject to Finance Charge	Daily Periodic Rate	Days in Billing Period	ANNUAL PERCENTAGE RATE	Balance Subject to Finance Charge	Daily Periodic Rate	Days in Billing Period	ANNUAL PERCENTAGE RATE
	1,818.96	.05696	31	20.80	0.00	.05696	30	20.80

JAF

This Account Issued by Citibank (South Dakota), N.A. CUSTOMER SERVICE 1-800-767-1291 FAX NUMBER 1-801-779-7425

Make checks payable to: **STAPLES CREDIT PLAN** Payment must be received by 5:00 p.m. local time on Payment Due Date.

Payment Due Date	New Balance	Minimum Payment Due	Amount of Enclosed Payment
11/06/11	\$ 2,088.56	\$ 87.00	\$

FOR PROPER CREDIT, PLEASE WRITE 7972 9125 0330 5158 ON CHECK AND ENCLOSE WITH THIS STUB.

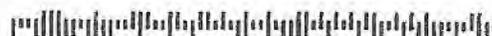
Mail Payments to:

Make Address Changes Below

Dept. 91 - 2503305158
STAPLES CREDIT PLAN
PO BOX 689020
DES MOINES IA 50368-9020

LEGAL SERVICES OF VIRGIN
ACCOUNTS PAYABLE
6066 LEESBURG PIKE STE 500
FALLS CHURCH, VA 22041-2219

000551
B
xscl



Legal Services of Northern Virginia, Inc.
 Transaction Detail By Account
 September 11, 2011

Finding 34

(2)

Type	Date	Num	Funding Source	Amount	Balance
605 - Office Supplies/Telephone					
7701 - Office Supplies					
Bill	09/11/2011	2011/10		107.71	107.71
Bill	09/11/2011	2011/10		139.20	246.91
Bill	09/11/2011	2011/10		82.44	329.35
Bill	09/11/2011	2011/10		19.99	349.34
Bill	09/11/2011	2011/10		1,732.98	2,082.32
Bill	09/11/2011	2011/10		32.97	2,115.29
Bill	09/11/2011	2011/10		11.99	2,127.28
Bill	09/11/2011	2011/10		126.95	2,254.23
Bill	09/11/2011	2011/10	Contributions	39.00	2,293.23
Bill	09/11/2011	2011/10	Contributions	59.03	2,352.26
Total 7701 - Office Supplies				<u>2,352.26</u>	<u>2,352.26</u>
Total 605 - Office Supplies/Telephone				<u>2,352.26</u>	<u>2,352.26</u>
TOTAL				<u>2,352.26</u>	<u>2,352.26</u>

\$ 98.03 posted to
 Contributions
 funding source (not LSC).

Finding 34

Legal Services of Northern Virginia, Inc.
Transaction Detail By Account

②

Type	Date	Num	Name	Amount
8520 · Miscellaneous Expenses				
Bill	05/12/2011	2011/06	Staples Credit Plan	42.63
Bill	05/12/2011	2011/06	Staples Credit Plan	39.00
Bill	06/10/2011	2011/07	Staples Credit Plan	18.05
Total 8520 · Miscellaneous Expenses				<u>99.68</u>
				<u>99.68</u>
				<u>99.68</u>

these fees were posted to
"miscellaneous expense"
(None of these expenses are
allocated to LSC)

Corrective Action 12

Legal Services of Northern Virginia, Inc.

Journal
July 18, 2012

Type	Date	Num	Name	Memo	Account	Debit	Credit
General Journal	07/18/2012	635	LSC	To reimburse LSC for late fees paid in 2010 To reimburse LSC for late fees paid in 2010	8520 - Miscellaneous Expenses 5567 - LSC Reimbursement	86.58 86.58	86.58 86.58
TOTAL						86.58	86.58

CASH RECEIPTS LOG

DATE REC	AMOUNT	CHECK FROM	CHECK NO	INTL
1-11-10	200.00 100.00	Dorothy Clarke	2586	TR
1-13-10	\$ 50.00	Thomas M. Loughlin	1479	VS
1-15-10	\$ 50.00	Vivian M Baylor	1104	VS
1-15-10	\$ 100.00	Thomas C. Palmer Jr	3407	VS
1-19-10	\$ 107.00	Amber Davis Trust Account?	934	VS
1-19-10	\$ 550.00	Network For Good	0000703051	VS
1-20-10	\$ 2,846.00	Northern Virginia Regional Comm	31025	VS
* 2-1-2010	\$ 121,798.92	Legal Service of NOVA	9702	RE
2-2-10	\$ 1800.00	Legal Service of NOVA - Client Unit	2055	VS
2-2-10	\$ 4050.00	Virginia Housing Development Authority	213759	VS
2-3-10	\$ 2846.00	Northern Virginia Regional Comm	31058	VS
2-3-10	\$ 5125.00	United Way	56647	VS
2-4-10	\$ 5065.00	County of Prince Wms	810677	VS
2-12-10	\$ 13,482.00	Northern Virginia Regional Comm	39079	VS
2-18-10	\$ 22,500.00	Natl Assoc of Consumer Center for Responsible Lending	000323	VS
2-22-10	\$ 510.99	America's Charities	186287	VS
2-26-10	\$ 20,000.00	Eugene & Agnes E. Meyer Foundation	10047	VS
2-26-10	\$ 170.45	Lauren Smith	1185	VS
3-1-10	\$ 2,029.02	City of Falls Church	00179440	VS
3-2-2010	\$ 121,798.92	Legal services corp of VA	0743	TR
3-2-10	\$ 106,148.00	Legal services corp	5605	TR
3-5-10	\$ 350.00	Rowell & Chynley	3067	TR
3-5-10	\$ 2029.50	City of Alexandria	493501	TR
3-11-10	\$ 40,015.50	Loudoun county	41556777	TR
3-15-10	\$ 100.00	Sidax Mitchell	10305	TR
3-19-10	\$ 329.00	National consumer law	5-234/110	TR
4-1-10	\$ 250.00	B.R. Hicks, PLLC	200790	TR
4-1-10	100.00	Rosario Andrade	1661	TR

Donation
Contribution
501(c)(3)
Contribution

NFE Grant

not previously entered

(1)

March Cobra payment

Finding 31

2/13/2010 12:02 PM

Deposit Summary

Summary of Deposits to 1014 - Wachovia Bank - Main Account on 02/04/2010

Chk No.	PmtMethod	Red From	Memo	Amount
2055	Check	Attorney Fees		1,800.00
213759	Check	VA Housing Devpt Authority		4,050.00
39058	Check	Ryan White		2,846.00
56647	Check	United Way		5,125.00
9702	Check	LSCV	February 2010	105,949.58
9702	Check	LSCV Iolta	February 2010	15,849.34
1176	Check		Lauren Smith COBRA	170.45

①

Less Cash Back:

Deposit Total:

135,790.37

LEGAL SERVICES OF
NORTHERN VIRGINIA, INC.
6086 LEESBURG PIKE, SUITE 500
FALLS CHURCH, VA 22041

DATE 2/4/10

DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL
ENDORSE & LIST CHECKS SEPARATELY OR
ATTACH LIST

CURRENCY	DOLLARS	CENTS

540705

DEPOSIT TO ACCT# 2XXXXXX8156
AMOUNT \$135,790.37
02-05-10 27016 1614 H 0000022

TIME: 03:51 PM

Calendar Date: 02/04/10
Deposit Effective Date: 02/05/10

Thank You For Your Business
Wachovia

21
22
23
TOTAL FROM ATTACHED LIST
PLEASE TOTAL THE PREVIOUS PAGE
135790.37

135790.37

CHECKS AND OTHER ITEMS ARE RECEIVED FOR DEPOSIT SUBJECT TO THE PROVISIONS OF THE UNIFORM COMMERCIAL CODE AND ANY...

RECEIVED
FEB - 3 2012

LSNV 4004.5B
Rev: 1 Sept 91

LSNV RECEIPT VOUCHER

Finding 31

DATE RECEIVED BY: _____ DATE DEPOSITED _____

RECEIVED FROM

39058

NORTHERN VIRGINIA REGIONAL COMMISSION

1412 Legal Services of NO VA

Date	Vr #	Description	Amount
1/22/2010	7503	Part A 09/10 December reimbursement	2,846.00

Check Date: 01/28/2010

Total 2,846.00

____ Client category is not LSC -- Deposit full amount to
Litigation Fund.
____ Client category is LSC -- Follow allocation formula below.

Name of Attorney _____ Branch _____
Attorney's salary is _____ % funded by LSC (approved budget).
_____ % LSC funding X _____ total court award = _____

Credit to LSC Cap Sav < _____
Credit balance to Litigation Fund

1

ORIGINAL DOCUMENT PRINTED ON CHEMICAL REACTIVE PAPER WITH MICROPRINTED BORDER

NORTHERN VIRGINIA REGIONAL COMMISSION
3060 Williams Drive, Suite 510
Fairfax, VA 22031

39058

BB&T
Branch Banking and Trust Company

68-426/514

Pay **two thousand eight hundred forty-six and 00/100**
PAY

DATE	AMOUNT
1/28/2010	\$2,846.00

TO THE ORDER OF
Legal Services of NO VA
Attn: James Ferguson, Exec Dir.
6066 Leesburg Pike, Ste# 500
Falls Church VA 22041

VOID 120 DAYS FROM CHECK DATE

Kedrick S. Pepper
James Ferguson

THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE - RED IMAGE DISAPPEARS WITH HEAT

⑈0000039058⑈ ⑆051404260⑆0005138476776⑈

Finding 31

3/26/2010 3:07 PM

Deposit Summary

Summary of Deposits to 1014 - Wachovia Bank - Main Account on 03/22/2010 → should have been 03/26/2010

Chk No.	PmtMethod	Rcd From	Memo	Amount
5745		LSCV	NCLC refund for cancelled training	329.00
3521918		LSC	Cox - refund for PLAS account	59.79
39208		Ryan White	Jan 2010	2,846.00
Less Cash Back:				
Deposit Total:				3,234.79

Wachovia Bank
A Division of
Wells Fargo Bank, N.A.
CULMORE
FALLS CHURCH

DEPOSIT TO ACCT# 2XXXXXXX0166
AMOUNT \$3,234.79
03/29/10 27810 1102 H 00000161

Time: 04:00 PM

Calendar Date: 03/26/10

Deposit Effective Date: 03/29/10

2

Thank You For Your Business

LEGAL SERVICES OF
NORTHERN VIRGINIA, INC
6086 LEESBURG PIKE - SUITE 500
FALLS CHURCH, VA 22041

DATE 3/26/10

DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL
ENDORSE & LIST CHECKS SEPARATELY OR
ATTACH LIST

	DOLLARS	CENTS
CURRENCY		
COIN		
TOTAL CASH		
CHECKS		
1		
2 COX	59	79
3 WELLS	399	
4 WAC	2846	
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
TOTAL FROM ATTACHED LIST	3234	79

Wachovia
Wachovia Bank, N.A.
wachovia.com

TOTAL ITEMS

3 \$

3234.79

5407052501 2000022218166

CHECKS AND OTHER ITEMS ARE RECEIVED FOR DEPOSIT SUBJECT TO THE PROVISIONS OF THE UNIFORM COMMERCIAL CODE AND ANY APPLICABLE COLLECTION AGREEMENT.

NORTHERN VIRGINIA REGIONAL COMMISSION

1412 Legal Services of NO VA

Date	Vr #	Description
3/10/2010	7663	Reimbursement January 2010 Part A 09/10

Check Date: 03/23/2010

Total

Amount
2,816.00
2,844.00

39208

BB&T
Bank Branch and Trust Company
68-426/514

VOID 120 DAYS FROM CHECK DATE

James Ferguson

James Ferguson

DATE	AMOUNT
3/23/2010	\$2,846.00

Pay **two thousand eight hundred forty-six and 00/100**

TO THE ORDER OF
Legal Services of NO VA
Attn: James Ferguson, Exec Dir.
6066 Leesburg Pike, Ste# 500
Falls Church VA 22041

#0000039208# ⑆054404260⑆000513847676⑆

Finding 31

2

Lora Rath

From: Lora Rath
Sent: Wednesday, September 26, 2012 10:03 AM
To: Lora Rath
Subject: FW:

From: Jim Ferguson [<mailto:jferguson@lsnv.org>]
Sent: Thursday, September 06, 2012 6:20 PM
To: David de la Tour
Subject: RE: question, quick I hope

The case closing oversight process is up and running now. Some managers have been doing it full speed ahead for several weeks now and a few are just really getting going on it.

From: David de la Tour [delatoud@lsc.gov]
Sent: Thursday, September 06, 2012 3:04 PM
To: Jim Ferguson
Subject: question, quick I hope

Your comments to the draft report state that the program will be adopting a new case closing oversight process. I was just asked when, and I do not know. Do you have a target date for full implementation of the new system?

Also, still working on your CSR question which is with a member of management to discuss.

David de la Tour, Program Counsel
Office of Compliance and Enforcement
Legal Services Corporation
3333 K Street, N.W., 3rd Floor
Washington, DC 20007

202-295-1525/direct phone
202-337-1254/fax
delatoud@lsc.gov