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CORPORATION

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FOR NATIONAL

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S E R V I C E

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## OFFICE OF THE INSPECTOR GENERAL

Review of

The Legal Services Corporation

Award # 94ADNDC018

**This report is issued to CNS Management. According to OMB Circular A-50, *Audit Follow Up*, the Corporation must make final management decisions on the report's findings and recommendations no later than September 12, 1997. Consequently, the reported findings do not necessarily represent the final resolution of the issues presented or the amount of disallowed costs.**

**The Inspector General must approve any request for public release of the report.**

Office of the Inspector General  
Review of Corporation for National Service  
Award Number 94ADNDC018 to the  
Legal Services Corporation



Tichenor and Associates, under contract to the Office of Inspector General, performed a limited review of the Legal Services Corporation's accounting systems and management controls to determine whether they are adequate for managing the award in accordance with Federal and grant requirements and for safeguarding Federal funds. We have reviewed the report and workpapers supporting its conclusions and agree with the findings and recommendations presented.

Tichenor and Associates found that the accounting systems and management controls of LSC and its subgrantees were inadequate to report grant expenditures and to safeguard Federal funds. The conditions leading to this conclusion were:

- Subgrantee staff salaries and fringe benefit costs charged to the grant were unsupported due to inadequate subgrantee time keeping procedures;
- LSC did not adequately monitor subgrantee financial activities; and
- LSC costs claimed for administration exceeded the Corporation's five percent limitation on such costs.

As a result, we are questioning \$82,114 in costs claimed under the award. These and other matters are discussed in detail in this report.

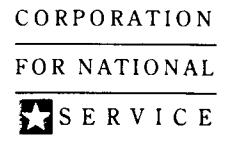
In its comments on a draft of this report, LSC disagreed with the findings and provided additional information on several issues. Tichenor and Associates considered some of this information sufficient to reconsidered their findings and revised them accordingly. LSC's comments (excluding attachments) are included as an Appendix and summarized in the report with the auditor's comments, as appropriate.

1201 New York Avenue, NW  
Washington, DC 20525  
Telephone 202-606-5000

**Getting Things Done.**  
AmeriCorps, National Service  
Learn and Serve America  
National Senior Service Corps

March 14, 1997

Ms. Martha Bergmark  
President  
Legal Services Corporation  
750 1<sup>st</sup> Street, N.E.  
Washington, D.C. 20002



Dear Ms. Bergmark,

Tichenor and Associates, under contract to the Office of Inspector General, performed a limited review of the Legal Services Corporation's accounting systems and management controls to determine whether they are adequate for managing the award in accordance with Federal and grant requirements and for safeguarding Federal funds. We have reviewed the report and workpapers supporting its conclusions and agree with the findings and recommendations presented.

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- LSC did not adequately monitor subgrantee financial activities; and
- LSC costs claimed for administration exceeded the Corporation's five percent limitation on such costs.

As a result, we are questioning \$82,175 in costs claimed under the award. These and other matters are discussed in detail in this report.

Your comments on a draft of this report are included as an Appendix and summarized in the report with the auditor's comments, as appropriate. If you have any questions related to the resolution process, you can contact Donna H. Cunninghame, Chief Financial Officer, at (202) 606-5000, extension 564. If you have questions pertaining to this report, please contact Mr. Brian Skadowski, Tichenor and Associates, at (703) 352-1417, or Bill Anderson, Assistant Inspector General for Audit at (202) 606-5000, extension 395.

Sincerely,

A handwritten signature in dark ink, appearing to read "L. S. Jordan".


For Luise S. Jordan  
Inspector General

Enclosure

1201 New York Avenue, NW  
Washington, DC 20525  
Telephone 202-606-5000

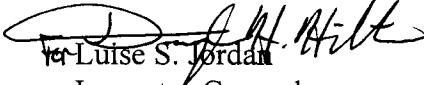
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MEMORANDUM

CORPORATION  
FOR NATIONAL  
 SERVICE

DATE: March 14, 1997

TO: Donna H. Cunninghame  
Chief Financial Officer

FROM:   
Luise S. Jordan  
Inspector General

SUBJECT: OIG Report 97-06, Review of Award Number 94ADNDC018 to the Legal Services Corporation

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As a result, we are questioning \$82,175 in costs claimed under the award. These and other matters are discussed in detail in this report.

A draft of this report was provided to LSC and CNS for comment. LSC's comments (excluding attachments) are included as an Appendix and summarized in the report with the auditor's

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comments, as appropriate. Copies of the attachments were provided to CNS' Office of Grants Management Services for their consideration during the resolution process. CNS did not provide a response.

As required by the Corporation's Audit Followup Directive, you must submit a Proposed Management Decision addressing these issues to this office, with a copy to the Corporation's Audit Resolution Coordinator, no later than June 22, 1997. If you have any questions pertaining to this report, please contact Bill Anderson, Assistant Inspector General for Audit at extension 395.

Attachment

c: Harris Wofford  
Dick Mickschl  
Mike Kenefick

**TICHENOR & ASSOCIATES**  
CERTIFIED PUBLIC ACCOUNTANTS and MANAGEMENT CONSULTANTS

WASHINGTON OFFICE  
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Inspector General  
Corporation for National Service

**INDEPENDENT AUDITORS' REPORT**

We performed a limited review, as described in the Scope and Methodology section of this report, of the Legal Services Corporation's (LSC) accounting systems and management controls to determine whether they are adequate for managing CNS award number 94ADNDC018 (an AmeriCorps grant), in accordance with Federal and grant requirements, and for safeguarding Federal funds. Except as noted below, our review covered the award period from June 24, 1994, through July 31, 1996. The grant award expired on December 31, 1996.

**RESULTS IN BRIEF**

We found that the accounting systems and management controls of LSC and its subgrantees were inadequate to report grant expenditures and to safeguard Federal funds. The conditions leading to this conclusion are as follows:

- Subgrantee staff salaries and fringe benefits costs charged to the grant were unsupported due to inadequate subgrantee time keeping procedures. We questioned \$62,929 in related staff salary and fringe benefits costs recorded by the grantee and its subgrantees.
- LSC did not adequately monitor subgrantee financial activities.
- LSC's records show costs claimed for administration exceeded the five percent limitation at September 30, 1995, the end of the first funding period. We questioned \$19,185 of administrative costs claimed by LSC.

We provided a draft of this report on January 10, 1997, to CNS and LSC officials for their comments. CNS did not provide a response.

In their letter of February 10, 1997, LSC disagreed with our findings and recommendations and provided attachments of additional documentation to support their position. Their response (without attachments) is included as Appendix I. We have forwarded LSC's response to CNS, Office of Grants Management Services, for the Corporation's consideration in resolving the issues raised in our report.

## **BACKGROUND**

Legal Services Corporation, Incorporated (LSC) is a private, non-membership, non-profit District of Columbia corporation headquartered in Washington, DC. LSC was established by Congress in the Legal Services Corporation Act of 1974 (Public Laws 93-355 and 95-222). The purpose of LSC is to provide financial support to independent organizations that directly provide legal assistance in non-criminal proceedings or matters to persons financially unable to afford such counsel. All funding for LSC is from the Federal government, either directly from Congressional appropriations, or indirectly through grants from other Federal agencies, including the Federal Emergency Management Agency (FEMA) and the U.S. Veterans Court of Appeals.

The CNS award supports a project titled the National Service Legal Corps (NSLC). The project sponsors teams of lawyers, paralegals, social workers and educators to implement model strategies. As outlined in the grantee's proposal and the basic grant agreement, these strategies were intended to address the legal needs of poor communities to prevent homelessness, protect victims of domestic violence, create jobs and affordable housing, and improve public health.

As the grantee for this award, LSC participated in a partnership with three other entities: the National Association of Public Interest Law (NAPIL), the National Legal Aid and Defender Association (NLADA) and the Project Advisory Group (PAG). LSC withdrew funds authorized under the grant and disbursed these funds to the partners and subgrantees according to a schedule based on the approved budget.

Although LSC is designated as the grantee in CNS award documents, NAPIL administers the grant's program aspects. NAPIL is a non-profit, District of Columbia corporation whose purpose is to support law school-based organizations that provide funding to law students, graduates and others seeking public interest employment.

The AmeriCorps grant provided support for the NSLC project, including funds for LSC's own participation, as shown below:

**SUMMARY OF AWARDED, RECORDED AND QUESTIONED COSTS  
SEPTEMBER 30, 1995<sup>1</sup>**

BUDGET CATEGORIES	AWARD BUDGET	COSTS CLAIMED <sup>2</sup>	ADJUSTMENTS	QUESTIONED COSTS <sup>3</sup>	FINDING <sup>4</sup>
Operating Costs (Sections A to D)	\$ 374,065	\$372,187	\$(51,985)	\$62,929	I, II
Administration (Section E)	4,500	4,500	51,985	19,185	III
Member Support Costs (Section F)	336,845	323,770			
Subtotal	\$ 715,410	\$700,457		\$82,114	
Child Care	36,590				
<b>Total Award<sup>4</sup></b>	<b>\$ 752,000</b>	<b><u>\$700,457</u></b>		<b><u>\$82,114</u></b>	
LSC's Matching Share	<u>1,242,784</u>				
<b>Total Budget</b>	<b><u>\$1,994,784</u></b>				

<sup>1</sup> This summary does not include additional amounts approved in amendment two on May 9, 1996.

<sup>2</sup> Total Outlays - Federal Share are as reported on LSC's September 30, 1995, FSR.

<sup>3</sup> For an explanation of the questioned costs, see the Findings and Recommendations section of this report.

<sup>4</sup> Educational Awards, totaling \$214,991 for 42 full-time and 7 part-time members, were provided in the approved budget but not included as part of the operating budget.



Under the CNS grant, 11 project sites across the country are organized as separate subgrantees. The subgrantees receiving funding under the award are as follows:

Advocates of Basic Legal Equality  
Toledo, Ohio

Legal Aid Foundation of Los Angeles  
Los Angeles, California

Legal Services of North Carolina, Inc.  
Raleigh, North Carolina

Evergreen Legal Services  
Seattle, Washington

Western Massachusetts Legal Services, Inc.  
Springfield, Massachusetts

Legal Assistance Foundation of Chicago  
Chicago, Illinois

Texas Legal Services Center  
Austin, Texas

Legal Services of Greater Miami, Inc.  
Miami Florida

Central Pennsylvania Legal Services, Inc.  
Lancaster, Pennsylvania

Southern Minnesota Regional Legal Services, Inc.  
Saint Paul, Minnesota

Legal Aid of Western Missouri  
Kansas City, Missouri

## **SCOPE AND METHODOLOGY**

We performed our review during the period March 25, 1996 through July 31, 1996, at LSC's headquarters, NAPIL's headquarters, and at four subgrantee operating sites: Western Massachusetts Legal Services, Advocates of Basic Legal Equality (Toledo, Ohio), Legal Services of North Carolina, and the Texas Legal Services Center.

The original grant for \$752,000 commenced on June 24, 1994, and was scheduled to expire September 30, 1995. LSC submitted an undated final Financial Status Report (FSR) in late November 1995, for the period ended September 30, 1995. CNS issued amendment two to the grant on May 9, 1996, extending the award period to December 31, 1996, and increasing the total award amount to \$1,405,904. We selected the FSR dated September 30, 1995, for our review because it was the most current FSR submitted as of the beginning of our field work. We reviewed transactions and identified questioned costs associated with the September 30, 1995 FSR. However, our findings and recommendations address the accounting and management controls of LSC and its subgrantees as they existed at the date we completed our fieldwork on August 27, 1996.

We performed the procedures listed below which were agreed to by the CNS Office of Inspector General solely to assist the users in evaluating management's assertion about the effectiveness of LSC's accounting systems and management controls over compliance with laws and regulations applicable to the grant during the period June 24, 1994 through July 31, 1996. The results of our review are included in the Findings and Recommendations section of this report.

Our procedures included:

- interviewing key management, accounting, and program personnel;

- reviewing organization charts, policy and procedures manuals, and charts of accounts;
- reviewing prior single audit reports on LSC's and NAPIL's financial statements and management controls;
- testing a judgmental sample of financial transactions related to the grant; and
- reviewing oversight and monitoring of subgrantees participating in the CNS grant.

We performed our review in accordance with *Government Auditing Standards* (1994 Revision) issued by the Comptroller General of the United States. However, our procedures were substantially less in scope than an audit, and accordingly, did not include elements essential to the expression of an opinion on management controls. Accordingly, we do not express such an opinion. Further, if additional procedures had been performed, other matters might have come to our attention that would have been reported. Also, projections of any evaluation of the management controls over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with policies and procedures may deteriorate.

In their response to a draft of this report, LSC disagreed with our findings and recommendations and some of the procedures followed during our review. LSC's comments and our response are summarized after the applicable findings in the report. We reviewed the comments and documentation provided by LSC. We considered some of the additional information sufficient to reconsider our findings and have revised them accordingly. Further, we did not respond to all of LSC's comments. Instead, we restricted our response to corrections of factual errors in our report and LSC's letter and attachments. However, we did include further explanation of the basis of our finding where we believed misunderstandings may have occurred.

We followed our standard procedures in communicating findings of our review. We gave LSC officials an informal briefing at the completion of our on-site fieldwork on July 31, 1996, and discussed tentative findings. We did not present the findings in the same detail or format as developed in the reporting phase of the review. We conducted additional data gathering in August 1996 and inquired about some of the issues of our findings. On January 10, 1997, we provided a copy of the draft report for comments to the CNS Chief Financial Officer and LSC. We attempted to discuss the revised findings with LSC at that time. On January 27, 1997, we held a formal exit conference with LSC.

LSC clarified that they are not subject to OMB guidance. They did state that they agreed to comply with OMB guidance in the AmeriCorps grant provisions. We revised the Background section of our report to agree with LSC's comments.

LSC stated that no funding was provided for their participation in the Federal share of the grant. The AmeriCorps grant funding for LSC's participation to which we refer is the funding provided by LSC to NAPIL to administer the program activity of the grant.

## FINDINGS AND RECOMMENDATIONS

- I. Subgrantee staff salary and fringe benefits costs charged to the grant were unsupported due to inadequate subgrantee time keeping systems.

We found that the subgrantees' accounting and management control systems were not adequate in the area of time keeping. At three of the four subgrantee sites we visited, we found that staff member time sheets did not show distribution of total staff member activity between work on the CNS project and unallocable work on other unrelated projects as required by Federal regulations (OMB Circular A-122, Attachment B, subparagraph 6 (2) (c)). Time and attendance records only differentiated between days for all project (regular) work and days for holiday, sick leave and vacation.

Additionally, the costs of staff work days charged to the grant were based on a percentage of the monthly grant budget. OMB Circular A-122 also states that charging costs of personal services on the basis of budget estimates is not adequate support for actual activity (Attachment B, 6 1 (2)(a)).

We concluded that the current records were not adequate to determine if the compensated hours were for effort allocable to the grant. As a result, we questioned \$62,929 of staff salaries and benefits as unsupported and shown below:

### Summary of Questioned Staff Salary and Benefits Costs

Western Massachusetts Legal Services		
Supervisory Attorneys	\$ 8,285	
Secretaries	12,483	
Taxes and Fringe benefits	<u>4,154</u>	
Subtotal		\$ 24,922
Legal Services of North Carolina		
Salaries	14,134	
Fringe benefits	<u>3,455</u>	
Subtotal		17,589
Texas Legal Services Center		
Salaries	17,558	
Fringe benefits	<u>\$ 2,860</u>	
Subtotal		<u>20,418</u>
<b>Total Questioned Costs</b>		<b><u>\$ 62,929</u></b>

We recommend that CNS require LSC to reimburse \$62,929 of unsupported staff salaries and benefits and also establish uniform time keeping requirements among the subgrantees to accurately distribute costs among the CNS grant and other projects. Further, CNS should

determine whether the staff salary and benefits costs recorded to the grant by LSC's subgrantees not shown above are adequately supported.

In their response to a draft of this report, LSC stated that the staff salaries and fringe benefits costs, claimed as direct costs, are actually indirect costs and consequently are not required to be based on personnel activity reports. LSC also provided additional documentation regarding the cost allocation methods at the subgrantees which are intended to show their time keeping systems complied with OMB Circular A-122. Lastly, LSC assumed the citation for one criteria for this finding, OMB Circular A-122, Attachment B 6 l (2) (a), was not correct and should be Attachment B 6 l (2) (c).

LSC's assertion that supervisory salaries are indirect costs would make these costs administrative by definition (AmeriCorps grant special provision 1b) and subject to the five percent limitation. We considered these costs to be allocated direct costs (OMB Circular A-22, Attachment A, Section D, subparagraph 4). Further, the budget category that LSC provides for these costs is Staff Salaries and Benefits which is a direct cost category. Therefore, the costs we questioned are direct costs which must be supported with personnel activity reports.

We revised our finding to exclude the questioned costs attributed to ABLE because their payroll system records actual activity of supervisors on the grant, whether or not they exceed CNS funding. For the other three subgrantees, no information we reviewed indicated that these costs were allocated in a similar manner.

The criteria for this finding was correct as originally stated, OMB Circular A-122, Attachment B 6, Compensation for Personal Services, paragraph I, Support of Salaries and Wages, sub-paragraph (2) (a), which states "Budget estimates (i.e., estimates determined before the services are performed) do not qualify as support for charges to awards."

## II. LSC did not adequately monitor subgrantee financial activities.

LSC collected, reviewed, compiled and forwarded quarterly FSRs and required budget-to-actual reporting from the 11 subgrantees. Additionally, LSC provided a comprehensive Audit and Accounting Guide published in 1986 as guidance for financial administration of the grant by subgrantees in addition to other published policies. However, this did not prevent unallowable staff costs from being claimed by subgrantees as noted in Finding I of this report. Specifically, LSC did not institute written procedures to verify the allowability, allocability and reasonableness of the costs being claimed as required by Federal regulations (OMB Circular A-110, section 21b (6)).

LSC's procedures did not implement the provisions of OMB Circulars A-110 and A-122, but instead, they based their procedures on OMB Circular A-133 and their own codification of federal cost principles (45 CFR 1630). LSC did incorporate the AmeriCorps grant provisions by reference in their sub-agreements. However, we concluded that was not sufficient to alert the subgrantees to certain OMB guidelines that were more specific than those LSC had required in their own publications which was for control of LSC's own funds. Further, LSC did not reimburse the subgrantees for actual monthly expenses but instead disbursed CNS funds in fixed monthly amounts. We found that LSC did not subsequently review the charges to the grant for allowability and allocability.

We recommend that CNS require LSC to develop and implement control procedures for subgrantees to ensure their accounting systems and systems of management control produce records that identify adequately the source and use of Federal funds, compare actual outlays with the approved budget, and result from written procedures for determining the reasonableness, allocability and allowability of costs.

In their response to a draft of this report, LSC stated they performed adequate monitoring of subgrantees by imposing of cost standards (45 CFR 1630), requiring budget-to-actual reporting, and conducting certain activities proposed in the grant application as approved by CNS.

We do not agree with LSC that their written procedures, absent other financial management controls were sufficient to adequately monitor financial activities of subgrantees.

III. LSC's records show costs claimed for Administration exceeded the five percent limitation in the amount of \$19,185 at September 30, 1995, the end of the first funding period.

We determined that, of the \$700,457 of total expenditures reported at September 30, 1995, \$603,227 was disbursed to the 11 subgrantees and \$97,230 was attributable to the grantee LSC. CNS regulations (45 CFR 2540.110) limit reimbursement of administrative costs to no more than five percent of funds made available under the grant in any one year. LSC incurred \$43,022 of direct costs for a training conference in Washington, DC, hosted by NAPIL. The remaining \$54,208 was incurred for salaries, benefits and other costs by NAPIL.

LSC and NAPIL representatives stated that only \$2,223 of these costs were administrative in nature, the rest being described as program activities for recruiting, training, placing and supervising AmeriCorps members (Grant special provision 1b). However, we were unable to determine from the sampled time sheet documents provided by NAPIL whether the services compensated were for these purposes in the amount specified. Additionally, we concluded NAPIL's responsibilities under the grant consisted mainly of coordination of overall grant program activities not specific to any one program. Therefore, we reclassified direct costs claimed of \$51,985 as Administration and questioned \$19,185 as follows:

**Administrative Costs  
As of September 30, 1995**

LSC's Claimed Costs	\$ 97,230	
Less:		
Training Costs (direct)	43,022	
Claimed Administration	<u>2,223</u>	
Staff Costs Reclassified as Administration		\$51,985
Claimed Administration		<u>2,223</u>
 Total Administration Recorded		 54,208
 Total Federal Share Claimed	 \$700,457	
Administrative Limitation - 5 percent	<u>x 0.05</u>	
 Allowable Administration		 <u>35,023</u>
 Questioned Costs - Net of Recorded and Allowable Administration		 <u>\$19,185</u>

We recommend that CNS require LSC to reimburse \$19,185 of administration claimed in excess of the maximum CNS share of 5 percent of funds made available.

In their response to a draft report, LSC stated that they consider the time spent by NAPIL staff to be direct costs which should not be considered administrative in nature.

We reviewed additional information as presented by LSC in their response and do not agree with LSC that NAPIL's costs are direct costs for specific program objectives. However, we adjusted the amount of claimed direct costs we reclassified to include the amount of administrative costs that LSC indicated had been incurred by NAPIL.

This report is intended solely for the information and use of the CNS Office of Inspector General and CNS management. However, this report is a matter of public record and its distribution is not limited.

*Tichenor & Associates*  
TICHENOR & ASSOCIATES  
Woodbridge, Virginia  
August 27, 1996

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# **APPENDIX I**

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**LEGAL SERVICES CORPORATION**

750 1st St., NE, 11th FL, Washington, D.C. 20002-4250

(202) 336-8800

Fax (202) 336-8959

Writer's Direct Telephone  
(202)

February 15, 1997

Mr. Jonathan D. Crowder, Partner  
Tichenor & Associates  
12531 Clipper Drive  
Suite 202  
Woodbridge, Virginia 22192

Dear Mr. Crowder:

Pursuant to your letter of January 10, 1997, we are submitting comments to your draft report on the review of the Corporation for National Service (CNS) AmeriCorps award to the Legal Services Corporation (LSC). These comments are submitted on behalf of LSC, the National Association for Public Interest Law (NAPIL) and the project subgrantees.

We are deeply concerned about the findings and recommendations in your draft report. The report contains numerous factual inaccuracies, is based on flawed methodology, and reflects a lack of understanding about elements of the program that CNS approved. Had LSC, NAPIL and the project subgrantees been informed of and provided an opportunity to respond to your concerns prior to releasing the draft report, we believe you could not have reached such unjustified conclusions. Even if the report's findings were fully supported by the facts, there is no justification for the conclusion that the accounting and management control systems of LSC and its subgrantees were inadequate to report grant expenditures and to safeguard federal funds.

Our written comments identify flaws in the process and methodology utilized by the Tichenor auditors, correct factual errors in the report, and provide support for the adequacy of our accounting and management control systems. We trust that the final report will incorporate the necessary changes and will not contain the unreasonable recommendations for the reimbursement of CNS funds.

It is worth noting that your report does not, and could not, claim that the services promised in our original proposal for the National Service Legal Corps (NSLC) were not

**BOARD OF DIRECTORS - Douglas S. Eakeley, Chairman, Roseland, NJ**

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Fairhaven, VT



Mr. Jonathan D. Crowder  
February 15, 1997  
Page 2

delivered. The NSLC consistently has exceeded its objectives, has delivered high quality legal services to thousands of people and communities in need, and has been touted by CNS program staff as one of the strongest national direct programs in the AmeriCorps network. LSC, NAPIL and the NSLC subgrantees are committed to ensuring that this project continues to be of the highest quality and continues to meet all of the CNS grant requirements. We have worked in close cooperation with CNS for nearly three years to implement a successful project and to monitor compliance with CNS regulations. We will continue to work with CNS to maintain the quality of the program and to enhance systems of management and accountability.

Our comments on the draft report are divided into three parts: 1) general comments regarding process and methodology; 2) specific comments on the findings and recommendations; and 3) errors and points of clarification.

## **PART 1: GENERAL COMMENTS**

The process and the methodology employed by Tichenor in this limited review were flawed. During the on-site field work, the Tichenor auditor failed to examine relevant documentation that could have addressed concerns raised in the report, relied on an inappropriate sample of documentation in some instances, and failed to notify the subgrantees and grantee of some of the anticipated findings and recommendations.<sup>1</sup> This section identifies general concerns about the process, which we believe raise questions about the validity of the findings and recommendations.

Contrary to standard auditing practices and the process outlined by Tichenor auditors at the March 25, 1996, meeting at LSC, no exit interview was scheduled prior to the release of the draft report. Our last contact with Tichenor & Associates prior to receiving the report on January

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<sup>1</sup> During the on-site visit at ABLE, the Tichenor auditor reviewed the time records of only one managing attorney, and did not review the detailed time records of other AmeriCorps supervisory personnel. (See, Attachment F, Affidavit of Nestor Octaviano, ABLE controller.)

The visit to Legal Services of North Carolina (LSNC) consisted of a half-day visit to the central office in Raleigh. Three LSNC programs, each of which is a separate corporation, participated in the NSLC. The Tichenor auditor reviewed documents, which were received by facsimile, for one site, Pamlico Sound Legal Services. The questioned costs included staff salary and fringe benefits for all three programs. (See, Attachment H, Letter dated February 6, 1997, from Lou Ann Vincent, LSNC director of finance.)

At Western Massachusetts Legal Services (WMLS), the Tichenor auditor declined an offer to interview subgrantee staff with material knowledge about the matters considered during the review. (See, Attachment G, Affidavit of Andrew Steinberg, WMLS executive director.)

Mr. Jonathan D. Crowder  
February 15, 1997  
Page 3

10, 1997, was in late July 1996. At that time, we were informed by the auditor who conducted the field work, Jim Bumgarner, that although some field work was yet to be completed, he did not anticipate any major problems surfacing from the review. We fully expected to have an opportunity to discuss any findings and recommendations before a draft report was circulated.

The first draft, which was provided to us five months after the conclusion of the field work, contained findings and recommendations that were not discussed with the grantee or the subgrantees during or after the field work. Indeed, some findings raised issues in areas where the auditor verbally stated he found no problem.<sup>2</sup>

Both the first and second draft include significant factual errors and reflect a lack of understanding of the program structure that CNS approved. As you know, our meeting with Tichenor representatives on January 27, 1997, led to several changes in the report, including the elimination of one major finding. An opportunity to present documentation to respond to Tichenor's concerns should have been provided prior to publishing the draft findings, recommendations and conclusions.

At least five auditors from Tichenor have worked on this project, and none of the persons who conducted the field work are now available. During the review process, we have worked with Nick Pellegrino, Jim Bumgarner, Renee Jorgenson, Brian Skadowski and Jim Anderson. Virtually all of the field work was conducted by Mr. Bumgarner, although he was apparently assisted for a short time by Mr. Pellegrino and Mr. Jorgenson. The departure of Messrs. Bumgarner, Pellegrino and Jorgenson from the firm has made this process exceedingly difficult. Although Mr. Skadowski and Mr. Anderson have been helpful, they were not part of the field work and appear to have limited knowledge of the on-site methodology and activities. Our in-person efforts to respond to the first draft were frustrated by their lack of familiarity with the work papers and the actual work conducted on-site.

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<sup>2</sup> At the end of the site visit to WMLS, the Tichenor auditor stated that he had no problems with what he found at the site. At NAPIL, the auditor stated that he found only one problem related to training costs, which was subsequently resolved. No concerns were raised about NAPIL's time keeping system or administrative costs. In fact, the auditor commented favorably on the thoroughness of NAPIL's time keeping records.

In late July 1996, the Tichenor auditor indicated to LSC representatives that he was comfortable with the review and did not anticipate any major problems being identified. The auditor did not discuss the finding related to administrative costs, did not raise the concerns cited in the report regarding LSC's fiscal monitoring procedures, and made no mention of the recommendations for reimbursement of funds.

## **PART 2: SPECIFIC COMMENTS ON FINDINGS AND RECOMMENDATIONS**

### **Finding I: “Subgrantee staff salary and fringe benefits costs charged to the grant were unsupported due to inadequate grantee time keeping systems.”**

This finding addresses amounts of AmeriCorps grant funds that four NSLC subgrantees expended on salaries and fringe benefit costs of staff who provided supervision and support to AmeriCorps members. The finding relies on Paragraph 6l(2) of Attachment B to OMB Circular A-122, which requires detailed personnel activity reports for staff whose compensation is charged directly to federal grants, or whose compensation is necessary to an organization’s determination of its indirect cost rate.

The four NSLC subgrantees have consistently charged the costs of supervision and support to the AmeriCorps grant, and to other federal grants, as indirect costs. Because the subgrantees have not charged these costs as direct costs, and because the costs are not necessary to the determination of an indirect cost rate, the keeping of detailed personnel activity reports is not required by OMB Circular A-122. Other auditors reviewing expenditures of federal funds by these subgrantees have not found material weaknesses in the subgrantees’ time keeping systems. Furthermore, grantee time records and other information provided by the subgrantees demonstrate that costs charged to the AmeriCorps grant were reasonable and necessary to the performance of the grant terms.

#### **A. Subgrantee salary and fringe benefit costs were charged to the AmeriCorps grant in accordance with OMB Circular A-122 and established cost allocation procedures.**

**Payroll records were properly maintained.** Paragraph 6l(1) of Attachment B to OMB Circular A-122 requires two types of documentation in support of salaries and wages. The first requirement is that salaries and wages, whether treated as direct costs or indirect costs, be based on documented payrolls approved by a responsible official. The second requirement is that salaries and wages charged directly to an award be supported by personnel activity reports.

NSLC subgrantees have maintained documented payrolls in support of salaries and wages charged to the AmeriCorps grant. Section 3.4-6 of the 1986 edition of the LSC Audit and Accounting Guide for Recipients and Auditors<sup>3</sup> requires NSLC grantee payroll systems to include: (1) detailed personnel files; (2) records of attendance, leave time, cumulative earnings, and withholdings; (3) a payroll register; and (3) documentation of supervisory approval of

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Hereinafter “Audit and Accounting Guide.”

changes to salary and wage rates and payroll disbursements. The Tichenor report did not identify any weaknesses in the documented payrolls at any of the NSLC subgrantee programs.

**Staff salary and fringe benefit costs were treated as indirect costs in accordance with established cost allocation procedures.** The four subgrantees reviewed by Tichenor utilize cost allocation methods that treat certain supervisory and support staff expenses, including those questioned by Tichenor, as indirect costs. The subgrantees have developed these procedures in consultation with their auditors and have consistently applied them over time to other federal grants.<sup>4</sup>

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<sup>4</sup> Paragraphs B1 and C1 of Attachment A to OMB Circular A-122 require that costs charged to one award as indirect costs be treated similarly under other awards. The NSLC subgrantees' cost allocation procedures have consistently treated supervisory and support staff costs as indirect costs under other federal awards.

**Advocates for Basic Legal Equality (ABLE).** ABLE's cost allocation procedures have been in place for over 15 years and were developed in consultation with Price Waterhouse. ABLE has applied its cost allocation procedures to LSC, U.S. Department of Justice, Title III-B, and other U.S. Department of Health and Human Services funding. According to ABLE's cost allocation procedures, the salary and fringe benefit costs of ABLE advocacy staff are allocated directly from time reports that track time in 10-minute increments. Supervisory and support staff costs are allocated indirectly according to the proportion of actual time spent by ABLE advocacy staff on various grant awards. ABLE has not previously received an adverse audit finding with respect to its cost allocation procedures or been informed that its procedures are in noncompliance with applicable accounting standards. (See, Attachment F, Affidavit of Nestor Octaviano.)

**Western Massachusetts Legal Services (WMLS).** WMLS' cost allocation procedures have been in place for many years and have been approved by the program's auditor. For the AmeriCorps grant, WMLS capped salary and fringe benefit costs of supervising attorneys and the AmeriCorps project coordinator at 7 percent and 9 percent, respectively, of those staff members' total salary and fringe benefit costs. WMLS allocated support staff salary and fringe benefit costs according to the percentage of advocacy staff working under a particular grant in any given office. WMLS has applied similar cost allocation procedures to Title III-B and LSC funding, and the program's auditor has stated that the cost allocation procedures are consistent with Subsections D(1) and D(2) of Attachment A to OMB Circular A-122. (See, Attachment G, Affidavit of Andrew Steinberg and Letter dated February 5, 1997, from Gerald Kashuk of Stevens, Kashuk, Bourgault, Kittredge & Grustaci, P.C.)

**Legal Services of North Carolina (LSNC).** LSNC cost allocation procedures vary among each of its offices, which are independent corporations. The Tichenor auditor reviewed records from one site only, Pamlico Sound Legal Services (PSLS). The PSLS allocation procedure, which was developed in consultation with the organization's auditor, McGladrey & Pullen, provides for the allocation of supervisory and support staff costs according to the percentage of advocacy staff working directly under a particular grant award. PSLS has applied similar cost allocation procedures to Title III-B and LSC funds, and the program's auditor has stated that the cost allocation procedures are consistent with OMB Circular A-122. (See, Attachment H, Letter dated February 6, 1997, from Robert C. White of McGladrey & Pullen, LLP.)

Two of the three NSLC offices that received AmeriCorps funds, Pisgah Legal Services and the North Carolina Client and Community Development Center, directly allocate salary and fringe benefits according to actual time records. The Tichenor auditor did not visit those sites and did not request to review any time records or other documents related to these two sites' cost allocation procedures. (See, Attachment H, Letter dated February 6, 1997, from Lou Ann Vincent.)

Independent public auditors have conducted annual audits of these organizations according to Government Auditing Standards and OMB Circular A-133. Reports resulting from these audits have not questioned these organizations' procedures for allocating indirect costs. Staff in the LSC Office of Inspector General and the Office of Program Operations have reviewed these audit reports and have not noted any findings of non-compliance with OMB Circular A-122.

**OMB Circular A-122 does not require detailed time records for supervisory and support staff whose compensation is charged indirectly to the AmeriCorps grant.**

Paragraph 6l(2) of Attachment B to Circular A-122 requires the keeping of detailed time reports reflecting the distribution of activity for such staff only if: (1) the staff's compensation is charged directly to the federal grant; or (2) the distribution of the staff's compensation is needed in the determination of the organization's indirect cost rate.

The draft report questioned the costs of NSLC supervisory and support staff because the NSLC subgrantees did not maintain detailed records of the supervisory and support time spent on AmeriCorps activities. Because NSLC subgrantees do not charge the costs of supervision and support directly to the AmeriCorps grant, and because they do not use supervisory and support costs in the determination of their indirect cost rates, the keeping of activity distribution reports for these staff is not required by Paragraph 6l(2) of Attachment B.

**B. Information provided by NSLC subgrantees demonstrates that the actual costs of AmeriCorps supervision and support exceeded the costs charged to the AmeriCorps grant.**

Close supervision and support of the NSLC members, most of whom are inexperienced attorneys, was essential to the success of this AmeriCorps program. Through the NSLC grant proposals, budget negotiations and quarterly reports, subgrantee staff have stressed the importance of supervision and training by experienced legal services personnel. CNS has acknowledged that NSLC members require significant supervision and support, and has

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**Texas Legal Services Center (TLSC).** TLSC's cost allocation procedures have been in place since 1989. According to these procedures, supervisory and support staff salary and fringe benefit costs are allocated according to estimates of the amount of time spent by such staff under each grant award. TLSC has also applied similar cost allocation procedures to Older Americans Act and LSC funds. TLSC has not previously received an adverse audit finding with respect to its cost allocation procedures or been informed that its procedures are in non-compliance with applicable accounting standards. (See, Attachment I, Statement of Randall Chapman, TLSC executive director.)

approved the subgrantee staffing structure in both grant years.<sup>5</sup>

**The staff costs that NSLC subgrantees charged as indirect costs are allowable costs and are not administrative costs.** The supervisory staff costs that NSLC subgrantees charged as indirect costs to the AmeriCorps grant are allowable costs and are not administrative costs as defined by AmeriCorps Grant Provision 1b and 45 C.F.R. Section 2510.20, which provide that the costs of recruiting, training, placing and supervising AmeriCorps participants are not administrative costs. The support staff costs that NSLC subgrantees charged as indirect costs are also not administrative costs as defined by Grant Provision 1b and 45 C.F.R. Section 2510.20, because the provisions provide that time program administrative staff spend in support of

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<sup>5</sup> Information provided by the four NSLC programs reviewed by Tichenor demonstrates that the true costs of the AmeriCorps supervisory and support staff time were higher than what was charged to the CNS grant.

**Advocates for Basic Legal Equality (ABLE).** According to the ABLE controller, time sheet data kept by supervisory staff shows that actual amounts of time spent on AmeriCorps activities far exceeded the time that ABLE charged to the AmeriCorps grant. (*See*, Attachment F, Affidavit of Nestor Octaviano.) ABLE managing attorneys and the project director have reviewed time records for the period of June 24, 1994, through September 30, 1995, and the results of those reviews demonstrate that more time and effort was expended on this project than was charged to the grant. (*See*, Attachment F, Affidavits of Kevin Mulder and Sandy Hamilton, ABLE managing attorneys, and Joyce Quinlivan, project director.) ABLE has also provided actual time sheet data that shows that two AmeriCorps supervisory personnel kept time reports that meet the requirements of Paragraph 6l(2) of Attachment B to OMB Circular A-122. During the on-site visit, the Tichenor auditor did not request or review these time records and, in fact, reviewed the time records of only one managing attorney. (*See*, Attachment F, Affidavit of Nestor Octaviano.)

**Western Massachusetts Legal Services (WMLS).** Affidavits submitted by WMLS supervisory personnel indicate that the true amount of time spent on AmeriCorps activities actually exceeded amounts charged to the grant by as much as 50 percent. (*See*, Attachment G, Affidavits of Amy Yanni, Margot Thomas, Deborah Marchand, David Santos; and Affidavit of Oonagh Doherty, former AmeriCorps member.) Affidavits submitted by support personnel indicate that actual time spent supporting AmeriCorps attorneys was also greater than the amount that WMLS charged to the grant for support time. (*See*, Attachment G, Affidavits of Judith Herberg and Blanca Miller, WMLS secretaries, and Sherry Fiske, former WMLS secretary.)

**Legal Services of North Carolina (LSNC).** Three different LSNC programs participated in the AmeriCorps project. Two of the programs, Pisgah Legal Services and the North Carolina Client and Community Development Center, maintained complete time sheet records that would meet the requirements of Paragraph 6l(2) of Attachment B to OMB Circular A-122. (*See*, Attachment H, Letter dated February 6, 1997, from Lou Ann Vincent.) Affidavits provided by supervisory staff at the third program, Pamlico Sound Legal Services, indicate that these staff spent at least 50 percent more time on AmeriCorps activities than was charged to the AmeriCorps grant. (*See*, Attachment H, Letter dated February 13, 1997, from Barbara Oien, PSLC administrator; Affidavits of Willie Dawson, PSLC executive director, and Jack Hansel, PSLC director of litigation; and Letter dated February 6, 1997, from Lou Ann Vincent.)

**Texas Legal Services Center (TLSC).** Affidavits from TLSC staff state that the actual amounts of time that they spent on AmeriCorps activities exceeded the amounts that were charged to the AmeriCorps grant. (*See*, Attachment I, Affidavits of Randall Chapman and Deidre Smith, former project director.)

specific project objectives is not an administrative cost.

The costs of supervisory staff questioned by Tichenor were expended for the recruitment, training, placement and supervision of AmeriCorps participants. Most of the NSLC AmeriCorps members were inexperienced attorneys and paralegals who required and received substantial training, supervision and oversight throughout the project. The ongoing training varied from site to site, but generally included training in substantive law, litigation and lawyering skills, mediation, and effective communication -- all of which were essential to providing competent legal services to low-income clients and communities. The recruitment, placement, training and supervision of NSLC AmeriCorps members was outlined in the original grant proposal and approved by CNS.

Similarly, the support provided by other staff of the NSLC subgrantees was set forth in the proposal and approved by CNS. The costs of support staff time that the Tichenor report questioned were for necessary support to AmeriCorps attorney and non-attorney members. Such support includes screening potential AmeriCorps clients, entering data on AmeriCorps activity into computerized databases, typing and editing pleadings and other documents, maintaining filing systems for AmeriCorps documents, and receiving AmeriCorps-related telephone calls. As such, these costs are directly related to activities under the AmeriCorps grant. Without this support, the AmeriCorps members could not have met the approved objectives of this program.<sup>6</sup>

**C. Requiring LSC and its subgrantees to reimburse funds expended for staff salaries and benefits is unreasonable.**

The Tichenor report does not, and could not, contend that any of the subgrantees failed to perform the work that was promised under our grant agreement with CNS. In the award period covered by the Tichenor review, the NSLC AmeriCorps members achieved remarkable results and surpassed the CNS-approved objectives. The members provided direct legal services to nearly 1,700 victims of domestic violence and more than 3,500 adults and children in need of safe, affordable housing. The members provided legal assistance to more than 400 community-based organizations, helping them rehabilitate 200 homes, create 100 new jobs, and establish water facilities for 300 poor families. The community education and outreach efforts of the NSLC members reached more than 10,000 low-income people. None of this could have been possible without the critical support and supervision provided by each and every NSLC subgrantee.

We believe that the Tichenor report incorrectly concludes that the NSLC subgrantee time keeping systems were inadequate and that the staff costs charged to the grant were unsupported.

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(See, Attachment G, Affidavits of Judith Herberg, Sherry Fiske and Blanca Miller.)

It is unreasonable to require the return of funds that were used precisely for the purposes intended and approved in our grant agreement.

**Finding II: “Subgrantees’ financial activities were not adequately monitored.”**

There is no factual basis to support a finding that subgrantees’ financial activities were not adequately monitored. The report wrongly concludes that LSC failed to institute certain monitoring procedures and ignores the fact that LSC’s monitoring program was consistent with the proposal approved by CNS.

**A. LSC regulations impose uniform costs standards and procedures upon all recipients of LSC funds and the NSLC subgrantees.**

The Tichenor report asserts that “LSC did not institute procedures to verify the allowability, allocability and reasonableness of the costs being claimed as required by Federal regulations.” The assertion is wrong.

OMB Circular A-110, section 21b(6), requires “written procedures for determining the reasonableness, allocability and allowability of costs...” LSC regulations impose uniform costs standards and procedures upon all recipients of LSC funds. 45 C.F.R. Part 1630, Costs Standards and Procedures, provides detailed standards for whether expenditures under a grant or contract are allowable (Part 1630.4(a)), reasonable (Part 1630.4(b)), and allocable (Part 1630.4(c)).<sup>7</sup>

The subgrant agreements between LSC and the NSLC subgrantees in years one and two conditioned disbursement of funds for the NSLC project upon compliance with all terms of the agreement, which includes 45 C.F.R. Part 1630, among other requirements. The subgrant terms incorporate the LSC Act, as amended, and all rules, regulations, policies, guidelines, instructions and other directives promulgated by LSC, including LSC’s Audit and Accounting Guide.<sup>8</sup>

Prior to the issuance of the draft report, the Tichenor auditors did not raise any concerns about the existence or adequacy of LSC’s written costs standards and procedures. The subgrant agreements, LSC regulations, and LSC Audit and Accounting Guide were made available to the

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<sup>7</sup> The relevant provisions of 45 C.F.R. Part 1630 are enclosed as Attachment A.

<sup>8</sup> See Subgrant Agreement, page 1, paragraph 2. The agreement also required compliance with the CNS Regulations, CNS requirements for assessing and reporting annual objectives, the AmeriCorps Grant Provisions, and a Special Conditions Statement and Reporting Requirements included as part of the subgrant agreement. A sample subgrant agreement is enclosed as Attachment B.



Tichenor auditors while they were on-site at LSC.

**B. LSC instituted procedures for subgrantees to report grant activity by approved budget category.**

Tichenor's conclusion that LSC did not institute procedures for subgrantees to report grant activity by approved budget category is wrong. Moreover, even if LSC had not instituted such procedures, a finding of inadequate financial monitoring would not be justified.

LSC's Audit and Accounting Guide, with which all NSLC subgrantees must comply, requires recipients' financial management systems to have the capacity to provide for a comparison of actual expenses against budget expenses. Recipients are required to maintain monthly management reports that show a comparison of total actual expenses against total budgeted expenses. The recipients must prepare special reports by funding source as required.

We are not aware of any requirement that grantees must receive and review subgrantee reports of grant activity by approved budget category. Neither OMB Circular A-110 nor the AmeriCorps Grant Provisions appears to require the submission of such reports. Section 21b(4) of Circular A-110, which is cited in the Tichenor report, simply requires that recipients' financial management systems provide for "comparison of outlays with budget amounts for each award..." AmeriCorps Grant Provision 18(a) provides a general description of the requirements of a financial management system, and refers to Circular A-110 for more details.

Contrary to Tichenor's finding, LSC did request that the NSLC subgrantees report grant activity by approved budget category during year one of the grant. On November 10, 1994, LSC issued a memorandum to all NSLC project directors requesting the submission of monthly budget forms that compared actual monthly expenses with budgeted monthly expenses. Subgrantees were asked to submit these forms on the first week of each month.<sup>9</sup>

**C. LSC's monitoring of subgrantees' financial activities was adequate and consistent with the proposed internal evaluation and monitoring activities approved by CNS.**

In the proposal submitted by LSC and NAPIL to CNS dated April 28, 1994, the Corporation stated that "[f]unds received and expended pursuant to the AmeriCorps project will be reported to LSC by participating programs at the end of their respective fiscal year for each year of grant activity. LSC staff auditors will conduct their customary review and analysis of

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<sup>9</sup> The LSC memorandum and a sample form are enclosed as Attachment C. In the second grant year, LSC opted not to collect these reports. If CNS concludes that LSC should collect and review these reports, we will resume the practice used in year one.

expenditures of CNCS grant funds.”<sup>10</sup> LSC’s requirement for an annual audit exceeded the requirements of Section 18(d) of the AmeriCorps Grant Provisions, which requires an audit at least every two years by an independent auditor in accordance with OMB Circular A-133.<sup>11</sup>

At the time the proposal was written, staff auditors in LSC’s Office of Program Evaluation, Analysis and Review (OPEAR) annually reviewed the audits of each LSC recipient to ensure proper expenditure of and accounting for federal funds. In May 1995, LSC’s Board of Directors transferred responsibility for the review of audits to the LSC Office of Inspector General (OIG). The LSC OIG examines the audits to identify reported instances of noncompliance with laws and regulations, questioned costs and control deficiencies, and refers any findings and recommendations to LSC management for action. No material findings were identified in the audits for any of the 11 NSLC subgrantees for the years ending December 31, 1994 or 1995.

LSC fiscal oversight procedures also included the review and analysis of operating budgets and budget justifications, quarterly financial status reports, and reports on end-of-year unobligated balances. LSC provided technical assistance when necessary to NSLC projects on financial matters throughout the grant term.

In addition to the annual audit requirement and other oversight procedures, LSC and NAPIL monitored and evaluated the NSLC project sites through on-site visits and quarterly reports. In addition to the quarterly reports submitted pursuant to CNS requirements, LSC required supplemental reports, including: 1) an NSLC Member and Project Data Sheet requiring documentation about members, hours completed for each quarter, and statistics on services provided; 2) a certification from each member that they have not engaged in prohibited activities; 3) reports on fundraising efforts, training and technical assistance needs, and continuous improvement efforts; and 4) information on means of replicating the NSLC project at other programs.

On-site visits have been conducted at nine of the sites during the course of the grant term. Two of the visits were conducted by LSC compliance monitors in the course of LSC’s normal monitoring cycle. The remaining visits were conducted by NAPIL staff.<sup>12</sup> Designed to evaluate

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<sup>10</sup> Proposal dated April 28, 1994, at pages 20, 21.

<sup>11</sup> LSC’s Audit and Accounting Guide requires recipients of LSC funds to conduct annual audits. In 1995, LSC’s revised Audit Guide for Recipients and Auditors required all recipients to conduct audits in accordance with OMB Circular A-133.

<sup>12</sup> LSC monitors conducted on-site visits at Western Massachusetts Legal Services (WMLS) on June 12-13, 1995, and Texas Legal Services Center on May 11-12, 1995. NAPIL staff conducted visits at WMLS, Central Pennsylvania Legal Services, Legal Services of Greater Miami, Evergreen Legal Services, Legal Aid Foundation of Los

Mr. Jonathan D. Crowder  
February 15, 1997  
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the programmatic success of the projects, these visits involved interviews with AmeriCorps members and project supervisors, other staff involved in the NSLC project, and individuals and organizations that the members served.

Since the inception of this grant, LSC and NAPIL reported to CNS each quarter on our internal evaluation and monitoring activities. CNS has never indicated that our monitoring activities were inadequate, and we have received consistently positive feedback about the thoroughness of our quarterly reports. The first time that an issue was raised about LSC's monitoring activities was during the Tichenor site visit in March 1996, when one of the auditors suggested that LSC should receive documentation on all expenditures from the subgrantees on a monthly basis. LSC contacted CNS to confirm that LSC's fiscal oversight responsibilities did not include the review of such supporting documentation. In a letter dated June 24, 1996, CNS Grants Officer Michael Arthur wrote:

Grantees are responsible for the programmatic and fiscal oversight of their subgrantees which involves monitoring through site visits, financial status reports, financial statements and A-133 audits. This fiscal oversight **could** involve the receipt and review of all supporting documentation for grant expenditures from the subgrantee, however, this is an option and not a requirement. Subgrantees are responsible to ensure that grant related expenditures have all of the necessary supporting documentation in accordance with the applicable OMB Circulars. Because the Legal Services Corporation subgrants its funds to other organizations, it is not required to gather and review its grantees' supporting documentation.

(emphasis in original).<sup>13</sup>

As described above, LSC's fiscal oversight activities involve monitoring through site visits, financial status reports, financial statements and A-133 audits. We believe that there is no factual basis for Tichenor's finding that LSC did not adequately monitor subgrantees' financial activities. In the event that CNS concludes that additional fiscal oversight procedures are appropriate, LSC would be willing to implement the necessary controls.

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Angeles, Legal Assistance Foundation of Chicago, Legal Aid of Western Missouri and Legal Services of North Carolina. In the original proposal, LSC agreed to do on-site monitoring for this grant during the course of its normal monitoring cycle. In the FY 1996 Appropriations Act for LSC, Public Law 104-134, Congress mandated a new system for compliance monitoring, assigning to the OIG responsibility for oversight of on-site monitoring to be coordinated by local program auditors as a part of each recipient's A-133 audit. As a result, our monitoring and oversight process was different from that originally contemplated, but still adequate to monitor compliance with the terms of the grant.

<sup>13</sup> A copy of this letter is enclosed as Attachment D.

**Finding III: “LSC records show costs claimed for administration had already exceeded the five percent limitation in the amount of \$19,186 at September 30, 1995, the end of the first funding period.”**

Tichenor’s finding that NAPIL exceeded the 5 percent limitation on administrative costs is wrong and ignores the fact that NAPIL’s work on the NSLC is non-administrative in nature. Section A(1)(b) of the 1994-95 AmeriCorps Grant Provisions defines administrative costs as “expenses ... [that] relate to the support of the program’s general operations and not to ... a particular program or project.” The Provisions go on to state that:

[a]dministrative costs do not include allowable costs directly related to program or project operations, such as ... (2) costs for staff who recruit, train, place, or supervise participants, including staff salaries, benefits, training, and travel, if the purpose is for a specific program or project objective; (3) costs for independent evaluations and any internal evaluations of the program or project that are specifically related to creative methods of quality improvement.

*Id.* (emphasis supplied).

The report by Tichenor summarily concluded that NAPIL’s work was administrative because “NAPIL’s responsibilities under the grant consisted mainly of coordination of overall grant program activities not specific to any one program.”<sup>14</sup>

Tichenor’s conclusion is wrong and demonstrates a fundamental misunderstanding of NAPIL’s role and activities in direct support of the operating sites and members, as approved by CNS in the original proposal and documented in all four quarterly reports for the first grant term.<sup>15</sup>

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<sup>14</sup> The auditors said they could not determine from “the sampled time sheet documents provided by NAPIL,” whether staff activities were for “recruiting, training, placing and supervising AmeriCorps members.” This is factually inaccurate. NAPIL provided Mr. Bumgarner, the on-site auditor, with full access to all NAPIL time sheets, which did specifically refer to NAPIL activities with regard to recruitment, training and placement. These specific references are described in more detail below. In fact, Mr. Bumgarner himself decided what to photocopy and retain for his work papers, and ultimately decided to keep only a small sample. It should be noted that Mr. Bumgarner actually complimented NAPIL on the thoroughness and accuracy of its time keeping systems in discussions with NAPIL’s executive director and fiscal administrator.

<sup>15</sup> As an indication of Tichenor’s fundamental misunderstanding of the role that NAPIL plays with regard to the NSLC, originally Tichenor incorrectly believed (and wrote in the first draft of its report) that NAPIL had assumed an “administrative” role with regard to the grant, and that LSC should have sought CNS approval for this shift in responsibilities. LSC and NAPIL produced conclusive proof that the respective roles of LSC and NAPIL were being implemented as was proposed in the grant proposal and agreement (i.e., LSC had primary administrative oversight, while

**A. NAPIL's activities have been "directly related to program or project operations," and thus not included under administrative costs.**

From the onset, NAPIL's work was to conduct recruitment, training, placement, evaluation and other CNS-required activities directly related to the program and project operations of each and every one of the 11 operating sites. The NSLC's original grant proposal approved by CNS specifically stated that LSC would "commit the resources and experience of its administrative, evaluation and monitoring staff," while NAPIL would "conduct a national recruitment campaign, develop an orientation program, maintain communication with all of the AmeriCorps participants and local partners, provide technical assistance, build an *esprit de corps* and the leadership skills of participants, and implement a public relations campaign to promote the NSLC."<sup>16</sup> Likewise, the original budget and budget narrative illustrate that LSC's services were to be administrative, whereas NAPIL's services would be programmatic.<sup>17</sup>

CNS approved this proposal, the budget and budget narrative, and the respective roles of NAPIL and LSC, understanding that NAPIL's activities would be in direct support of members and their sites, and not administrative.

The quarterly reports from year one demonstrate that LSC and NAPIL did what they proposed and what CNS approved. LSC administered the grant, coordinated sites' fiscal reporting, helped develop an evaluation and monitoring plan, and provided overall general technical assistance. All of LSC's services were provided in-kind.

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NAPIL provided substantive program support). As a result, Tichenor withdrew its finding that there was a shift of responsibilities that required CNS notification and approval.

<sup>16</sup> See, NSLC Proposal at p. 11.

<sup>17</sup> Under the "staff" category of the budget, all of LSC's costs, including salaries and benefits, were provided in-kind. The explanation specifically stated that these services included "general oversight of program operations; grant awards and administration; and coordination, review and analysis of project status reports, technical assistance, program assessment, coordination of final project reports, coordination of project phase out."

NAPIL, on the other hand, had a staff budget comprising partial time for the executive director, project coordinator and project assistant, all of whom would spend time conducting recruitment, placement, training, evaluation and other CNS-required activities directly in support of the members and their sites. The budget narrative also stated that NAPIL would work in direct support of the local participants. For instance, supplies and materials included "recruitment mailings," "monthly mailings of newsletters and other correspondence to participants and sponsoring organizations," "recruitment packet[s]," "monthly NSLC Bulletin[s]," and "orientation packet[s]."

In the summer of 1994, NAPIL implemented a successful campaign to recruit members for every NSLC site. NAPIL helped sites select and place their members, sent orientation materials to new participants, and provided technical assistance to individual members and sites. NAPIL also took the lead in developing and carrying out the first NSLC national training in December 1994. To improve the quality of the program and employ creative methods of quality improvement, NAPIL provided extensive technical assistance each quarter to sites' project directors and members as they developed their progress reports, and disseminated information about AmeriCorps training and technical assistance. Finally, as required and encouraged by CNS under its national identity objectives, NAPIL conducted outreach and education about AmeriCorps and the NSLC at CNS-sponsored and other national service events, and at national and regional legal conferences.

Consistent with the proposal approved by CNS and with the AmeriCorps Grant Provisions, NAPIL's direct support activities were billed to the grant as non-administrative, allowable costs.

**B. NAPIL's time sheets document that NAPIL's activities were not administrative in nature.**

Since July 1, 1994, NAPIL employees have been required to submit time sheets documenting the time spent on each major program, including descriptions of tasks performed. The time sheets are completed in ink, signed by the employee, and approved by the executive director. To determine the actual expense to be billed to a specific program, NAPIL's fiscal administrator multiplies an employee's monthly salary, benefits and FICA expenses by the percentage of total time the employee spent toward that program.<sup>18</sup>

NAPIL's time sheets document the programmatic, non-administrative activities described above. The time sheets show that staff primarily spent their time on the following NSLC

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<sup>18</sup> In a conference call with NAPIL and LSC on January 29, 1997, Tichenor representatives said that NAPIL's time keeping practices were substandard. To support this view, Tichenor pointed out that the time sheets of Suzie Armstrong, the NSLC project assistant in year 1, listed the time spent on the NSLC project, and did not list the time spent on other projects.

Again, Tichenor is wrong. From July 1, 1994, through June 30, 1995, NAPIL employees filled out separate time sheets for each project on which they worked. When combined with Ms. Armstrong's time sheets describing her work on other projects, NAPIL was able to ascertain the percentage of time devoted to the NSLC. Tichenor is mistakenly relying on only one portion of Ms. Armstrong's time keeping records. Not surprisingly, Mr. Bumgarner never raised this issue with NAPIL because he had seen Ms. Armstrong's other time sheets.

It should be noted that on July 1, 1995, NAPIL improved its time keeping practices so that all programs were consolidated into a single time sheet, thereby making it easier to ascertain the percentage of time spent on each program.

activities in year one:

- ▶ Member Recruitment and Placement. NAPIL staff conducted a nationwide recruitment campaign to recruit members for all 11 project sites, and time sheets reflect specific member recruitment and placement activities. NAPIL repeated many of these tasks the following June, July and August for year two recruitment, as reflected in the respective time sheets.
- ▶ Member Training. NAPIL staff were extensively involved in developing and carrying out the first NSLC national training in December 1994. As evidenced by explicit references in the time sheets, their work toward the training began in August and increased in intensity through December.
- ▶ Technical Assistance to Individual Sites and Members. The time sheets for year one reflect numerous, specific examples of NAPIL staff providing technical assistance to individual sites and members on programmatic issues.<sup>19</sup>
- ▶ Site Visits and Meetings with Local Project Directors. NAPIL's time sheets contain specific references to preparing for and carrying out site visits at the local NSLC project sites in year one. Between January and March, for instance, time sheets reflect Ms. Welch's visit to the NSLC site in Miami, and Ms. Grange's visits to sites in Massachusetts and Pennsylvania. All of the site visits involved in-person meetings with project directors and the members themselves, as explained in the quarterly reports.
- ▶ CNS-Required and -Sponsored Activities, and Program Evaluation. The time sheets reflect that NAPIL staff performed many daily activities throughout year one in response to CNS objectives, and in pursuit of creative methods of quality improvement. Time sheets for September and October, for example, document that NAPIL staff worked to help individual project sites revise their objectives -- an internal evaluation exercise aimed at improving each project and the overall program. Time sheets throughout year one reflect that NAPIL spent significant time each quarter assisting local sites in

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<sup>19</sup> For example, Ms. Grange's time sheets from September 1994 through September 1995 consistently reflect daily tasks such as "Site T/A," "answering questions from sites," "phone calls from sites," "field and respond to site questions," "draft memo to sites," and "sending materials to sites." Some time sheets refer to a particular site (e.g., "Memo to LAFLA project director re: training," "Memo to Washington site and materials") or the actual issues being addressed (e.g., Ms. Grange's December 1994 time sheets reflect her work with CNS staff on whether law graduates' private lenders also might grant AmeriCorps loan forbearance).

evaluating their progress and improving their practices.<sup>20</sup> Numerous time sheets also document that, as required and/or encouraged by CNS, NAPIL staff reviewed periodic CNS updates and other mailings and disseminated the information to local project sites; attended meetings at CNS and such CNS-sponsored events as the AmeriCorps launch in September 1994, participated in national and community service events and meetings, and developed promotional materials, such as newsletters, that profiled and promoted individual members, their sites and their achievements, and AmeriCorps.<sup>21</sup>

All of the activities cited above were documented in extensive detail in the four NSLC quarterly reports for year one, all of which were provided to Mr. Bumgarner during his on-site visit. Mr. Bumgarner never raised this as an issue during his two-day visit at NAPIL.

As described above, NAPIL performed the non-administrative, substantive program role that was contemplated in the grant proposal and agreement. Moreover, the AmeriCorps Grant Provisions specifically state that these activities are not "administrative." Accordingly, Tichenor's finding that NAPIL's role was administrative is plainly wrong, and none of the funds provided to NAPIL should be returned to CNS.

### **PART 3: ERRORS AND POINTS OF CLARIFICATION**

1. Background Section, page 2, paragraph 2. The report states that because OMB has ruled that LSC is a non-profit organization, LSC is subject to OMB Circulars A-110 and A-122. In a letter dated March 1, 1991, to the LSC Inspector General, the Comptroller General of the United States concluded that "LSC is not subject to the provisions of the OMB Circulars, but may use those provisions for guidance."<sup>22</sup> The applicability of the OMB Circulars to LSC is limited to the AmeriCorps Grant. In the Grant Agreement dated September 23, 1994, LSC agreed to comply with the terms of the AmeriCorps Grant Provisions, including the provisions of OMB Circulars A-110 and A-122.
2. Background Section, page 2, last sentence. Contrary to the statement in the draft report, the AmeriCorps grant provided no funds for LSC's participation in the NSLC. As

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<sup>20</sup> Much of this work occurred during the quarterly reporting process as required by CNS. NAPIL's documented daily activities include "reporting package preparation, technical assistance for sites," "review site drafts, prepare feedback," "reporting process," and "work on quarterly reports; site t/a."

<sup>21</sup> Promoting "national identity" was and continues to be a specific program objective required by CNS of all programs and their operating sites.

<sup>22</sup> A copy of this letter is enclosed as Attachment E.



Mr. Jonathan D. Crowder  
February 15, 1997  
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detailed in the approved budgets and budget narratives for both year one and two, all of LSC's services to this project are provided in-kind.

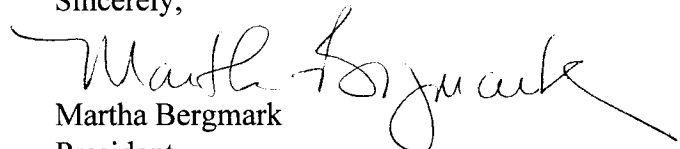
3. Summary Chart, page 3. The calculation for the total Outlays - Federal Share is wrong. The total should be \$700,457.
4. Pages 3 and 4. As a matter of clarification, a footnote should be added to the list of subgrantees that indicates that three of the sites were not part of amendment two to the award. In the second year of the project, Evergreen Legal Services, Legal Services of Greater Miami and Texas Legal Services Center did not participate.
5. Scope and Methodology, page 4, paragraph 2. The Tichenor auditors selected the September 30, 1995, FSR for their review, stating that it was the most current FSR submitted as of the beginning of the field work (March 25, 1996). On February 29, 1996, pursuant to a CNS deadline, LSC and NAPIL submitted the first quarterly report for year two of the grant. This report included FSRs for the period October 1 through December 31, 1995.
6. Findings and Recommendations, page 5. The first cite to OMB Circular A-122 is wrong. Attachment B of the Circular does not contain subparagraph 6(2)(c). We assume the cite you are relying upon is 6(2)(c).

## CONCLUSION

For the foregoing reasons, we believe that Tichenor should make substantial changes to the draft report prior to publication. Consistent with our practices for nearly three years, LSC, NAPIL and the NSLC subgrantees stand ready to work with CNS to resolve any remaining concerns.

Thank you for your consideration.

Sincerely,



Martha Bergmark  
President  
Legal Services Corporation

cc: William Anderson, CNS Assistant Inspector General  
Mike Kenefick, CNS Director of Grants and Contracts