

**LEGAL SERVICES CORPORATION**

**BOARD OF DIRECTORS**

---



**SEMIANNUAL REPORT TO THE CONGRESS**

**FOR THE PERIOD**

**OCTOBER 1, 2003 – MARCH 31, 2004**

**MAY 31, 2004**

## **FOREWORD**

We are pleased to transmit the Semiannual Report of the Legal Services Corporation (“LSC”) Board of Directors (“Board”), providing comments on the Semiannual Report of LSC’s Office of Inspector General (“OIG”) for the six-month period of October 1, 2003, through March 31, 2004, and providing further explanation of LSC’s activities during the reporting period.

LSC’s Board recognizes the value of the Inspector General function and remains committed to working with the OIG to achieve our goal of providing high quality legal assistance to the poor of our nation.

---

Frank B. Strickland, Chairman  
Legal Services Corporation  
May 31, 2004

# TABLE OF CONTENTS

Message of the Board of Directors .....	1
Background .....	3
The Legal Services Corporation .....	3
Funding and Grant-Making Activities .....	3
Management Initiatives.....	4
Competition.....	4
Program Visits .....	4
State Engagement.....	5
Technology Efforts .....	6
Rural Initiatives.....	8
Loan Repayment Assistance Program .....	8
Intake.....	8
LSC Resource Initiative.....	9
Implementation of 2000 Census and the Harkin-Smith Amendment.....	9
Evaluation .....	10
Matters .....	11
Diversity, Inclusion and Multi-Cultural Competency .....	11
Civil Asset Forfeiture Reform Act.....	11
Rulemaking Activities .....	12
Litigation Update .....	12
Work of the Office of Compliance and Enforcement.....	13
Table 1: Management Report on OIG Audit Reports of Grantees Issued With Questioned Costs for the Six-Month Period Ending March 31, 2004 .....	16
Table 2: Management Report on Audit Reports Issued During the Six-Month Period Ending March 31, 2004, With Recommendations That Funds Be Put to Better Use .....	17

## MESSAGE OF THE BOARD OF DIRECTORS

---

During the reporting period, on January 20, 2004, the Board of Directors appointed Helaine M. Barnett as the new President of LSC. Ms. Barnett is a graduate of Barnard College and the New York University School of Law. She has been a legal aid lawyer for thirty-seven (37) years, and her experience includes nearly three decades of involvement in the management of the Legal Aid Society of New York City's multi-office civil division, which she headed from 1994 until the end of 2003. She has served on the American Bar Association's Board of Governors, on the ABA Executive Committee, and on a number of other prominent commissions and committees. She was appointed by the Chief Judge of the State of New York to the Commission to Promote Public Confidence in Judicial Elections and now serves as a co-chair. She is also currently Treasurer of the Association of the Bar of the City of New York and a member of its Executive Committee. Ms. Barnett was most recently appointed by the ABA President to serve on its Governance Commission, which is constitutionally mandated to review ABA governance every 10 years. She succeeds John N. Erlenborn, the former Congressman from Illinois who served as LSC's interim President from July 1, 2001, through January 19, 2004, and who has since retired.

The Board is pleased to have the opportunity to address the Congress and share its perspective on the current state of federally-funded civil legal services for low-income Americans. LSC is in the fifth year of implementation of its Strategic Directions 2000-2005, the principal goals of which are to increase access to justice and improve the quality of civil legal assistance on behalf of the needy and less fortunate. While LSC and grantees continue their undertaking to maximize the cost-effective use of limited federal resources and to leverage those resources to raise funds from state and local governments, foundations and private sources, the significant unmet need for civil legal assistance in the United States reminds us starkly that we are far from achieving our national commitment of "equal justice for all."

During the reporting period, LSC continued work on important initiatives to support its grantees and to improve the quality and accessibility of services for the indigent. These efforts include the continued use of technology to promote and facilitate access to legal services. LSC has provided a range of technological assistance to programs during the reporting period, including assistance to grantees in evaluating the effectiveness of technology projects such as statewide websites, and support in the form of 'circuit riders' who assist with technology infrastructure, intake and pro se projects. LSC is also supporting the use of innovative technology such as videoconferencing to facilitate client conferences and emergency court hearings when court is not in session.

Some of LSC's additional efforts during the reporting period include continued program visits to discover innovative procedures that may serve as models for other programs; attempts to address the special problems of indigent persons in rural communities; attempts to address the large student debt loads that frequently dissuade

law graduates from pursuing careers in legal services programs; efforts to promote intake systems that maximize client access to services while effectively using the time and resources of attorneys; continued work to promote diversity among legal services providers; and efforts to measure the outcomes associated with our grantees' work on behalf of clients. LSC also continues to monitor its grantees for compliance with federal law and LSC regulations, working closely with the Office of Inspector General.

## BACKGROUND

---

### **The Legal Services Corporation**

The Legal Services Corporation is a private, non-profit corporation established in the District of Columbia by the Legal Services Corporation Act of 1974, as amended (“the LSC Act”),<sup>1</sup> to provide financial support for legal assistance in civil proceedings to persons unable to afford legal services. LSC is governed by an eleven-member bipartisan Board of Directors appointed by the President of the United States with the advice and consent of the Senate. The Board appoints LSC’s President, who serves as LSC’s chief executive officer, subject to general policies established by the Board.

The 1988 Amendments to the Inspector General Act of 1978 (“the 1978 Act”) required LSC to establish an Office of Inspector General (“OIG”) and extended specific provisions of the 1978 Act to LSC. Accordingly, such an office was established by and for LSC. The Inspector General is appointed by, reports to, and serves under the general supervision of, LSC’s Board of Directors.

### **Funding and Grant-Making Activities**

LSC provides funding to civil legal services programs serving indigent persons throughout the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, Micronesia and American Samoa. To carry out the purposes of the LSC Act, LSC received an appropriation of \$338,848,000 for Fiscal Year (“FY”) 2004. (This figure was reduced to \$335,300,000 after two across the board rescissions of 0.59% and 0.465% were enacted, a net reduction of \$1,300,000 from FY 2003.) For FY 2005, LSC submitted a budget request for \$352,400,000. The four percent (4%) increase would partially address the increased poverty population in LSC service areas. From 1990 to 2000, the number of people living in poverty increased by 5.74%. However, LSC’s appropriations have not kept pace with this increase in eligible clients.

---

<sup>1</sup> 42 U.S.C. §§ 2996-2996l.

## MANAGEMENT INITIATIVES

---

During this reporting period, LSC continued its efforts to improve the efficiency of its competitive grant award system and the effectiveness of the delivery of legal assistance to eligible clients. LSC continued to demonstrate its ability to ensure both compliance with program rules and regulations, and the maintenance of high quality legal assistance to eligible clients.

### **Competition**

LSC will hold competitions for calendar year 2005 grants in service areas in twenty-four (24) states and the Commonwealth of Puerto Rico. The Request for Proposals (“RFP”) for 2005 grants emphasizes the value LSC places on strategic planning, program quality, outcomes for clients, and applicant efforts to promote comprehensive and integrated state delivery systems. As in the past, the RFP will capture data on diversity among staff and boards of directors, and sensitivity to low-income people with special access challenges, including those with limited English proficiency and limited literacy.

LSC staff evaluate grant applications based on the American Bar Association Standards for the Provision of Civil Legal Services to the Poor and LSC’s Performance Criteria. In addition to thoroughly evaluating the applications, LSC has, since FY 2003, provided grant applicants with “feedback letters” which address the potential strengths and weaknesses of the proposed delivery strategies contained in grant applications. Based on the comments that LSC has received, it appears that these letters have been well received and helpful.

The competitive grants process has evolved into a useful tool for capacity building within state delivery systems, for identifying areas of further improvement, and for networking legal services programs. Two of LSC’s foremost objectives in the competitive grant process are 1) to collect information necessary to determine the capacities of individual legal services programs; and 2) to remain informed about the quality of legal services delivery throughout the country.

The 2005 RFP, application instructions, resource materials, key competition dates, and an overview of the competitive grants process, are available at [www.ain.lsc.gov](http://www.ain.lsc.gov).

### **Program Visits**

During the reporting period, LSC continued visiting programs to assess quality, provide technical assistance, assess progress in achieving a comprehensive delivery system in recently reconfigured service areas, address problems, evaluate innovative procedures which may serve as models for other programs, and communicate LSC’s

expectations directly to grantees. These visits reaffirmed LSC's belief that such meetings expand its understanding of programs' activities otherwise gleaned from competition applications, grant activity reports, and anecdotal information.

LSC conscientiously follows up on program visits that it has made in the past. Typically, LSC staff call programs to check on progress with planned changes. Additionally, after program visits, LSC often provides programs with innovative practice materials to assist in improving the effectiveness of their delivery systems.

From October 1, 2003, through March 31, 2004, the Vice-President for Programs and/or Office of Program Performance ("OPP") staff and consultants visited the following eight (8) programs: Northwest Justice Project; Legal Services for New York City; Texas RioGrande Legal Aid; Legal Services of Eastern Virginia; Western Michigan Legal Services; California Indian Legal Services; North Penn Legal Services; and Utah Legal Services.

OPP staff visits involved a review of program operations including the establishment of priorities, intake systems, legal work management and supervision, governance, Private Attorney Involvement, resource development, and strategic planning, to evaluate the efficiency and effectiveness of programs. Following an OPP staff visit, it is customary for LSC staff to send a report or letter to the program with findings and recommendations. These letters are maintained at LSC and are available upon request.

## **State Engagement**

LSC continues to promote efforts by its grantees to develop comprehensive, integrated delivery systems that reach a greater number of persons, with a broader range of services. The State Delivery System Initiative requires grantees to work with other providers and stakeholders within each state, such as the courts, bar associations and client groups, to assure that a full range of high quality legal services are available to clients regardless of their geographical location within a given state.

During this reporting period, LSC's Office of Program Performance ("OPP") -- the department that works with the field programs on state planning, technology innovation, information-sharing, program quality and competition issues -- reorganized to integrate its program work with its state delivery system work. Rather than having some OPP staff work solely on programmatic issues and others work solely on state delivery system issues, the entire OPP staff now work together to promote strong, healthy legal services programs that thrive within vibrant state delivery systems, and that are responsive to client needs. As a result of the reorganization, LSC will place a greater emphasis on grantees' role in building and maintaining inclusive and collaborative state justice communities. Due to planning for the OPP reorganization, on-site state engagement visits during this period were limited to meetings in Missouri, New York, Ohio, and Pennsylvania.



In 2002, LSC initiated the development of an evaluation instrument designed to assess the success of its grantees' State Planning efforts. The instrument sets forth the criteria and measures that LSC will use to evaluate the effectiveness of the civil legal services delivery system within each state. Evaluations also establish benchmarks against which further progress can be measured, and they allow LSC to gather data to compare state delivery systems. During this reporting period, LSC conducted evaluations of the Utah and Virginia state delivery systems.

## **Technology Efforts**

### *Administration of Technology Initiative Grants Program*

LSC's technology efforts consist primarily of the administration of the Technology Initiative Grants program ("the TIG program"), and the awarding of grants through this program. The TIG program uses technology to help grantees provide assistance to low income persons who would otherwise not receive legal assistance. This is accomplished by means of technologically enhanced pro se and community legal education efforts, and also by enhancing state justice systems' technology infrastructures to allow centralized telephone intake and delivery systems. This use of technology also allows greater coordination among grantees. Last year LSC awarded \$3.4 million in grants through the TIG program for the following purposes and in the following amounts: Infrastructure, \$932,428; Intake Systems, \$213,242; Training and Technical Assistance, \$642,287; Pro Se Technology Efforts, \$952,034; and Website Development, \$674,870.

### *Progress of Prior TIG Grants*

The following are updates on TIG projects which LSC has previously discussed in its Semiannual Reports to Congress:

- The project to provide a centralized server for document assembly functions for statewide websites -- the HotDocs Online Server Project -- is nearing completion. The completion of this project by June 2004 will enable grantees to upload automated forms for the use of clients and staff.
- Until recently, there was a "website circuit rider" (i.e. an expert available to assist state justice communities with their statewide websites) for one of LSC's two website templates. During the reporting period, LSC made available to state justice communities a "website circuit rider" for the second template -- the Open Source (or Kaivo) template.
- As LSC has reported in the past, the Orange County (California) Legal Aid Society developed a website and kiosk program to help low income tax payers file their federal tax returns and file for Earned Income Tax Credit -- an under-utilized benefit in the tax code for low income workers. For 2003 tax filings, the program helped low income tax payers receive over \$3 million in refunds, \$2.1 million of which were Earned Income Tax Credits.
- The Legal Meetings Online Conference Center is a program available to all LSC grantees to conduct on-line, computer-assisted meetings. The program enables

grantees to avoid costly in-person meetings when they are not necessary. The on-line function allows all participants to see and modify documents that are under consideration. Grantees have been utilizing this benefit in increasing numbers. In February, the Legal Meetings Online Conference Center hosted one hundred (100) meetings with four hundred and fifty-two (452) attendees.

Through the TIG program, LSC has funded the development of statewide websites in forty-nine (49) out of the fifty-seven (57) states and United States territories (e.g. Washington, D.C., Guam, Micronesia, Puerto Rico, the U.S. Virgin Islands and Native American tribal territories) that it serves. Several of the jurisdictions without LSC-funded statewide websites have fully-functioning websites that they have created independently, and others anticipate creating statewide websites in the future. Many of the LSC-funded statewide websites have at least two of the three required components completed. (The three required components are the client component, the advocate component, and the pro bono component.) During the reporting period, LSC also funded a grant to research sustainability solutions for grantees with statewide websites, in partnership with the Interest on Lawyers Trust Account (“IOLTA”) and the National Association of IOLTA Programs. The committee overseeing this grant anticipates the release of its findings during the summer of 2004.

#### *Preparation for 2004 Grant Cycle*

The Notice of Funds Availability for the 2004 TIG competition was released in February 2004, with an application deadline of May 14, 2004. The project categories for which LSC is seeking grant applications for 2004 are as follows: Statewide Technology Planning; State Plan Implementation; Pro Se; Access Projects; Statewide Websites; and Special Projects. LSC has \$2.97 million of TIG grant funds to award in 2004, and it anticipates that it will receive approximately one hundred (100) applications.

#### *Website Evaluations*

LSC’s system for evaluating the effectiveness of TIG-funded websites in their first year of implementation (i.e. first year websites) is now fully operational. This system includes evaluation instruments and an online reporting system. The evaluation tools for second year websites have been completed and disseminated to grantees, and LSC anticipates that the online reporting system for these evaluations will be operational by June 2004. In developing these systems, LSC built upon the work of the Technology Evaluation Project (“TEP”) and incorporated significant input from TIG grantees and others. (The TEP was a project funded by a 2001 TIG grant to create tools, such as surveys and reporting instruments, that help grantees evaluate the effectiveness of their technology projects.) LSC is now developing databases to compile and analyze the evaluation results, and to produce reports summarizing and profiling key findings. The evaluation systems can be reviewed at:  
[http://www.lri.lsc.gov/sitepages/tech/tech\\_eval.htm](http://www.lri.lsc.gov/sitepages/tech/tech_eval.htm).

## **Rural Initiatives**

LSC continues to develop strategies to improve the delivery of legal services in rural areas. In November 2003, LSC sponsored a day-long meeting of leaders in rural delivery to share ideas and develop strategies to improve the delivery of legal services to rural communities across the United States. This conference arose out of the Rural Delivery Symposium which was held in the fall of 2002 in Nebraska City, Nebraska. At the November 2003 meeting, participants discussed recruiting and retaining high quality, diverse staffs; building programs' substantive capacities in areas such as economic development, employment law, consumer issues, affordable housing, and complex litigation; increasing, diversifying and allocating resources; and operating in the community. Participants also heard a special presentation from funders of rural initiatives. Two (2) LSC staff members have been assigned to work with grantees on rural delivery efforts.

## **Loan Repayment Assistance Program**

In 2003, the LSC Board of Directors requested that staff survey all grantees on the subject of student debt relief and retirement benefits offered to their staff. LSC staff presented their findings on this subject to the Board in January 2004. One hundred and five (105) of LSC's one hundred and forty-two (142) grantees responded to the survey. Thirty five (35) of LSC's existing grantees have loan repayment assistance programs ("LRAP"). Fifty-seven percent (57%) of the one hundred and five (105) programs that responded to the survey, including some programs which have loan repayment assistance programs ("LRAP") and some which do not, believe that law school debt has a serious impact on their ability to recruit qualified staff attorneys. More than seventy-five percent (75%) of grantees with existing LRAP programs reported that such programs are an effective tool for recruitment and retention of staff attorneys. Ninety-six percent (96%) of grantees that responded to the survey have retirement benefit plans for their attorneys. The employer contribution to such plans varied greatly among grantees.

## **Intake**

During the reporting period, LSC continued promoting the use of telephone intake, advice and referral systems by grantees. These systems are designed to increase access to immediate assistance for clients on critical legal needs, while preserving staff time for cases requiring extensive representation.

LSC's Office of Program Performance created the Intake Focus Team to provide specialized support to grantees and LSC staff on intake issues. This team has provided technical assistance to programs in California, Iowa, Montana, Nebraska, Nevada, New Hampshire, Wisconsin and Virginia in the development of centralized telephone intake, advice and referral systems, and/or enhancements to their existing systems.

## **LSC Resource Initiative**

LSC continues to promote high quality legal assistance through the cross-fertilization of good ideas and practices in the legal services community. To further this goal, the Office of Program Performance (“OPP”) oversees the LSC Resource Initiative (“LRI”), a project that has successfully gathered information about innovative legal services management approaches since its inception in June 2001. The website that supports this initiative -- the LSC Resource Library -- has been online since October 2002, and can be viewed at <http://www.lri.lsc.gov>.

Some of the topics featured on the website include technology, diversity, intake, and management practices. Noteworthy practices of many LSC grantees are featured on the website. To avoid duplication, the website links to several other websites and existing sources of information. The website also includes announcements and training opportunities available to the legal services community.

LSC has had the opportunity to coordinate and work with other entities through the LRI. In November 2003, the LRI staff coordinated with the Management Information Exchange and AARP Legal Counsel for the Elderly to conduct a workshop at the National Legal Aid and Defender Association Annual Meeting. The workshop was entitled “Innovations in Civil Legal Services” and was very well attended. A product of the workshop was a manual on innovations in legal services that is posted on the LRI website.

LRI staff members continuously add content to the website and look for ways to make improvements. Staff members distribute an LRI newsletter that shares content from the website and seeks suggestions and submissions. An evaluation of the website that is designed to solicit feedback from LSC staff and members of the legal services community is currently underway.

## **Implementation of 2000 Census and the Harkin-Smith Amendment**

LSC’s appropriation act requires that it distribute funds for each geographic area on a per capita basis relative to the number of individuals in poverty determined by the Bureau of the Census to be within a given geographic area. The Bureau of Census released the 2000 Census poverty population data in the summer of 2002.

Full implementation of the new Census numbers would have caused approximately half of LSC grantees to lose funding, while the other half would have gained. Under the Harkin-Smith Amendment, LSC received an additional \$9.5 million for FY 2003, to mitigate the Census-related losses to grantees. These funds were projected to cut the losses approximately in half. However, as a result of a 0.65% across-the-board rescission included in the final FY 2003 appropriation, the actual funding restored was somewhat less than fifty percent.

For 2004, the House proposed to resume the allocation of Basic Field-General funding based solely on the Census poverty population, while the Senate version included nearly the same funding, but continued to allocate a sum (i.e. \$6.7 million) to mitigate the funding reductions for programs that lost poverty populations in the last decade. The final version of LSC's FY 2004 appropriation provided \$2.5 million to be "equitably distributed to the ten states most negatively affected by recent census-based reallocations."<sup>2</sup> LSC identified two possible interpretations of this language. The first interpretation was that the funds should be distributed among the ten (10) states that lost the highest percentage of funding. The second interpretation was that the money should be distributed among those states that had the largest loss of actual dollars. After careful consideration of the issues and consultation with appropriate members of Congress, LSC decided to distribute the funds using the second interpretation (i.e. among states that had the largest loss of actual dollars). Applying this standard, LSC distributed the additional \$2.5 million to the following states: Illinois, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Ohio, Puerto Rico, and Wisconsin.

For FY 2005, the LSC budget request proposes that funding be distributed solely on the basis of the 2000 Census poverty population, with no adjustment based on prior year funding numbers.

## **Evaluation**

LSC believes that in order to assure the highest quality of services, there must be rigorous evaluation of LSC's procedures and strategies, as well as those of its grantees. As described above, LSC's evaluation of applications, grantees, technology projects, and progress in building state justice communities is on-going. The most complex type of evaluation is that which attempts to measure outcomes. Pursuant to its strategic plan, LSC is pursuing outcome measurement in the state justice evaluation process and in the technology grants.

While these are important outcome measurement efforts, they do not measure outcomes for clients receiving extended representation. In June 2003, LSC took the first step in devising a strategy for addressing the measurement of outcomes in extended representation cases. LSC did this by partnering with the Hale and Dorr Legal Services Center, and the Bellows-Sacks Access to Civil Legal Services Project of Harvard Law School, to sponsor the Summit on Performance Measures: Assessing Quality and Measuring Results.

During the reporting period, LSC organized a follow-up outcomes summit that will take place from June 24 - 26, 2004, in Cincinnati. This gathering will bring together grantees that have extensive experience with outcome measures to give LSC guidance on its next steps. LSC staff members are also working on a prototype outcome measurement strategy.

---

<sup>2</sup> Consolidated Appropriations Act 2004, Pub. L. 108 – 199, 118 Stat. 3 (2004).

## **Matters**

The Matters Service Reports (“MSR”) track the significant “non-case” services provided by grantees (e.g. community legal education, referrals and pro se information) through which grantees do not provide legal representation, but nevertheless provide valuable service to the indigent community. Until the initiation of the MSR, there was no systematic, statistical reporting of such services to LSC. The MSR augments the Case Service Reports (“CSR”) system that has been used for decades to measure and report the number and types of cases closed by LSC grantees each year.

The online MSR reporting system has continued to function smoothly, and in March 2004, LSC received calendar year 2003 MSRs from grantees with no major problems. LSC received a total of 155 reports including information from all current grantees, and it is currently only missing reports from three former grantees. Several processes for checking the data were underway at the close of March 2003, and some data corrections are in process.

## **Diversity, Inclusion and Multi-Cultural Competency**

During the reporting period, LSC continued its support of grantees and state justice communities that seek to expand diversity in their organizations and improve access for clients from underserved communities. A cornerstone of this effort is the provision of trained facilitators to guide conversations on inclusion, and to help legal services leaders craft strategies that will enhance the productivity of diversity activities. During the reporting period, LSC provided this form of assistance to two (2) grantee boards.

During the reporting period, LSC dedicated significant time to developing guidance for its grantees on the provision of legal services to individuals with limited English proficiency. An increasing number of grantees’ clients throughout the country do not speak English well, if at all. In order to comply with federal civil rights laws and LSC’s grant assurances, grantees must expand their service strategies and procedures to include communities with limited English proficiency.

## **Civil Asset Forfeiture Reform Act**

During the year 2000, President Clinton signed into law the Civil Asset Forfeiture Reform Act (“CAFRA”), Pub. L. 106-185, 114 Stat. 202. Among other things, CAFRA provides that indigent persons whose homes are subject to civil forfeiture shall be entitled to be “represented by an attorney for the Legal Services Corporation.” Although the CAFRA provision involving LSC became effective in 2000, LSC only received one request from court personnel for representation in a relevant case prior to 2003. During the reporting period, however, LSC received several additional requests for representation for cases in Washington, DC and California. LSC has responded to each such request by obtaining skilled counsel from the appropriate jurisdiction for each eligible client.

## Rulemaking Activities

During the reporting period, LSC published a Final Rule adopting revisions to its regulation on the outside practice of law (by full-time attorneys working for LSC grantees), appearing at 45 CFR Part 1604. The revisions substantively restructure and revise the rule to clarify the scope of the restrictions on outside practice. The Final Rule also amends several definitions and allows for the separate treatment in the regulation of court appointments. The revised rule became effective on February 2, 2004.

As of the end of this reporting period, the following two rulemakings remain open: financial eligibility, appearing at 45 CFR Part 1611; and restrictions on legal assistance to aliens, appearing at 45 CFR Part 1626.

## Litigation Update

On October 29, 2003, the United States Court of Appeals for the Second Circuit issued a summary order affirming the decision of the United States District Court for the Southern District of New York in *Bronx Legal Services v. Legal Services for New York City and Legal Services Corporation*, Civil Action No. 02-CV-6199 (S.D.N.Y.). In this case, Bronx Legal Services (“BLS”) challenged LSC’s state planning process and alleged that through the process, Legal Services for New York City (“LSNY”) and LSC attempted to gain control of BLS through a reorganization of LSNY and its sub-grantees. BLS also claimed that this alleged effort to gain control over it through a reorganization of LSNY was in retaliation for BLS filing a lawsuit against LSNY and LSC opposing a request of LSC’s Office of Inspector General for “confidential information.” (See *Bronx Legal Services, et al. v. Legal Services Corporation, Legal Services for New York City and Edouard R. Quatrevaux*, Civil Action No. 00 CIV 3423 (S.D.N.Y.)). BLS filed a *Petition for a Writ of Certiorari* with the Supreme Court of the United States, which the Supreme Court denied on May 8, 2004.

Additionally, in *Bronx Legal Services, et al. v. Legal Services Corporation, Legal Services for New York City and Edouard R. Quatrevaux*, Civil Action No. 00 CIV 3423 (S.D.N.Y.), a matter in which LSC’s Office of Inspector General (“OIG”) requested certain information from LSC grantees and the grantees thereafter filed suit against LSC and the OIG, the plaintiffs filed a *Petition for a Writ of Certiorari* with the United States Supreme Court. LSC filed an Opposition to the *Petition for a Writ of Certiorari* on October 22, 2003. The plaintiffs filed the *Petition for a Writ of Certiorari* after the United States Court of Appeals for the Second Circuit affirmed the decision of the United States District Court for the Southern District of New York, holding that summary judgment had been appropriate because provision of the requested information to the OIG would not be in conflict with New York State Codes, rules and regulations. On December 1, 2003, the United States Supreme Court denied Plaintiffs’ *Petition for a Writ of Certiorari*.

## **Work of the Office of Compliance and Enforcement**

LSC's Office of Compliance and Enforcement ("OCE") is charged with a number of functions which ensure that recipients are in compliance with the LSC Act and Regulations. These obligations currently include compliance investigations, prior approvals of some expenditures and activities by grantees, on-site visits to ensure compliance with regulations, and the provision of training to recipients.

### *On Site Visits*

From October 1, 2003, to March 31, 2004, OCE conducted on-site visits at seventeen (17) programs.

### *A-50 Follow-Up*

During the reporting period eleven (11) findings were referred for A-50 follow-up. Management has reviewed and closed all referred findings. Additionally, follow up activity related to the referral by the OIG of the program integrity audit report for South Central Michigan Legal Services is currently being conducted by OCE. In determining whether a grantee has maintained program integrity, the standard for evaluation is the "totality of circumstances" test. The program was asked to draft a corrective action plan to ensure its compliance with 1610 requirements. The program's response is currently being reviewed by OCE and the Office of Legal Affairs.

### *Prior Approval Under 45 C.F.R. Part 1630*

Pursuant to 45 C.F.R. §1630.5, LSC grantees are required to obtain LSC's prior approval for certain expenditures including pre-award costs and costs incurred after the cessation of funding; purchases and leases of equipment furniture and other personal, non-expendable property valued at more than \$10,000; purchases of real property; and capital expenditures exceeding \$10,000 to improve real property.

During the reporting period, OCE reviewed and approved eleven (11) requests totaling \$453,462 to lease or purchase personal/non-expendable property, three (3) requests totaling \$155,659 to renovate real property and one (1) request totaling \$280,00 to purchase real property pursuant to 45 C.F.R. Part 1630.

### *Private Attorney Involvement under 45 C.F.R. Part 1614*

LSC's Private Attorney Involvement ("PAI") regulation, 45 C.F.R. Part 1614, requires that all recipients devote an amount equal to at least 12.5% of their respective Basic Field Grants to involve private attorneys in the delivery of legal assistance to eligible clients. A provision of this regulation (i.e. 45 C.F.R. § 1614.6) allows recipients to request either a partial or complete waiver of this requirement in circumstances in which they have been unable to meet the obligation during a given year. If a recipient's circumstances warrant a waiver, OCE will either waive the requirement and adjust the



requirement for that year by the amount of the shortfall, or increase the next year's requirement by the amount of the shortfall. During the reporting period, OCE granted twenty-four (24) full waivers and four (4) partial waiver requests pursuant to 45 C.F.R. § 1614.6. In addition, one (1) waiver request was denied due to the untimely submission of the request. The requested waiver amount will be added to the program's 2004 PAI requirement.

All follow-up on PAI compliance is conducted during the review of the recipient's audit report for the following grant year, and if necessary, the PAI program is evaluated as part of the recipient's Cases Service Reporting ("CSR") and Case Management Systems ("CMS") review.

#### *Subgrants Under 45 C.F.R. Part 1627*

Pursuant to 45 C.F.R. §1627.1, a recipient may subgrant a portion of its LSC funding to another entity to conduct certain activities related to the recipient's programmatic activities. Such activities include those that would otherwise be undertaken by the recipient itself, such as representation of eligible clients, or activities which provide direct support to a recipient's legal assistance activities, such as a PAI component.

OCE approved sixty (60) recipient subgrants during the noted time period.

#### *Fund Balances Under 45 C.F.R. Part 1628*

LSC recipients whose annual audits report fund balances in excess of ten percent (10%) of their total LSC annualized support, are required to request a waiver from LSC pursuant to 45 C.F.R. § 1628.4, in order to carry over the excess balance to the following year. Recipients may request a waiver to retain fund balances in excess of 25% of LSC support only for extraordinary and compelling reasons. In the absence of a waiver, LSC is required to recover the excess fund balance pursuant to 45 C.F.R. §1628.3. During the reporting period, OCE reviewed and approved one (1) fund balance waiver request totaling \$52,727.

When OCE grants a fund balance waiver, it informs the relevant program that the excess fund balance should be reported separately in the recipient's next audit, either as a separate fund or by a supplemental schedule in the audit report. The separate reporting is by line item to show exactly how the excess fund balance was spent. OCE ensures that the excess fund balance is reported appropriately through its review of the recipient's annual audit.

#### *Complaint Investigations*

OCE is responsible for the review, investigation and disposition of complaints filed by members of the public (e.g. applicants, clients, local recipients, staff and Board members, opposing counsel/parties, taxpayers, members of Congress, etc.) related to the

activities of LSC recipients. During the reporting period, thirty-six (36) such complaints were closed. The majority of the complaints closed during the reporting period involved denial of services (i.e. complaints from applicants who were financially ineligible, outside of program priorities, or requesting assistance with fee-generating cases or other cases prohibited by Congressional restrictions).

#### *Audit Reports*

The fiscal year cycle adhered to by LSC grantees differs from program to program. While the majority of grantees operate on the fiscal year cycle that ends on December 31st of each year, others adhere to cycles that end on January 31st, March 31st, May 31st, June 30th, or September 30th respectively. LSC grantees must submit their audit reports (including audited financial statements) to LSC's OIG within 120 days of the end of their respective fiscal years.

The OIG ensures that all grantees submit their audit reports to LSC in a timely fashion. OCE then reviews the audited financial statements for compliance with the Accounting Guide for LSC Recipients (issued in August 1997) and LSC financial-related regulations (i.e. 45 C.F.R. Parts 1610, 1614, 1627, 1628, 1630, 1631, and 1642).

After the OIG reviews and processes grantees' audit reports in its audit tracking system, a copy of each grantee's audit report is sent to OCE. During the reporting period, OCE reviewed thirty-five (35) audit reports forwarded to it by the OIG.

**TABLE 1**

**Management Report on  
Office of Inspector General Audits of Grantees  
Issued With Questioned Costs  
For the Six Month Period  
Ending March 31, 2004**

	Number of Reports	Disallowed Costs
A. Audit Reports for which final action had not been taken by the commencement of the reporting period.	0	\$0
B. Audit Reports on which management decisions were made during the reporting period.	0	\$0
Subtotals (A + B)	0	\$0
MINUS:		
C. Audit Reports for which final action was taken during the reporting period:	0	\$0
(i) Dollar value of disallowed costs that were recovered by management through collection, offset, property in lieu of cash, or otherwise.	0	\$0
(ii) Dollar value of disallowed costs that were written by management.	0	\$0
D. Audit Reports for which no final action has been taken by the end of the reporting period.	0	\$0
Audit Reports for which no final action had been taken within six months of issuance	0	\$0

**TABLE 2**

**Management Report on Audit Reports Issued During  
The Six Month Period Ending March 31, 2004,  
With Recommendations That Funds Be Put to Better Use By Management  
Agreed to in a Management Decision**

	Number of Reports	Dollar Value
A. Audit Reports for which final action had not been taken by the commencement of the reporting period.	0	\$0
B. Audit Reports on which management decisions were made during the reporting period.	0	\$0
Subtotals (A + B)	0	\$0
MINUS:		
C. Audit Reports for which final action was taken during the reporting period:	0	\$0
(i) Dollar value of recommendations that were actually completed.	0	\$0
(ii) Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed.	0	\$0
D. Audit Reports for which no final action has been taken by the end of the reporting period.	0	\$0
Audit Reports for which no final action had been taken within six months of issuance.	0	\$0