

Office of Inspector General Corporation for National and Community Service

AGREED-UPON PROCEDURES FOR CORPORATION FOR COMMUNITY SERVICE GRANTS AWARDED TO EQUAL JUSTICE WORKS

OIG REPORT NUMBER 08-19



Corporation for
**NATIONAL &
COMMUNITY
SERVICE** 

Prepared by:

COTTON & COMPANY LLP
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This report was issued to Corporation management on June 18, 2008. Under the laws and regulations governing audit follow-up, the Corporation is to make final management decisions on the report's findings and recommendations no later than December 18, 2008 and complete its corrective actions by June 18, 2009. Consequently, the reported findings do not necessarily represent the final resolution of the issues presented.



OFFICE OF INSPECTOR GENERAL

June 18, 2008

TO: Kristin McSwain
Director, AmeriCorps*State and National

Margaret Rosenberry
Director, Office of Grants Management

FROM: Carol Bates 
Assistant Inspector General for Audit

SUBJECT: Report 08-19, *Agreed-Up Procedures of Corporation for National and Community Service Grants Awarded to Equal Justice Works*

We contracted with the independent certified public accounting firm of Cotton & Company, LLP (Cotton) to perform agreed-upon procedures in its review of Corporation grants awarded to Equal Justice Works (EJW). The contract required Cotton to conduct its review in accordance with generally accepted government auditing standards.

Cotton is responsible for the attached report, dated June 13, 2008, and the conclusions expressed therein. We do not express opinions on EJW's Consolidated Schedule of Awards, and Claimed and Questioned Costs; conclusions on the effectiveness of internal controls; or compliance with laws, regulations, and grant provisions.

Under the Corporation's audit resolution policy, a final management decision on the findings in this report is due by December 18, 2008. Notice of final action is due by June 18, 2009.

If you have questions pertaining to this report, please call me at 202-606-9356.

Attachment

cc: David Stern, EJW, Chief Executive Officer
Cole McMahon, EJW, Senior Program Manager - AmeriCorps Senior
William Anderson, Deputy Chief Financial Officer, Financial Management
Rocco Gaudio, Deputy Chief Financial Officer, Grants and Field Financial Management
Sherry Blue, Audit Resolution Coordinator
Michael Gillespie, CPA, Partner, Cotton & Company LLP

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**OFFICE OF INSPECTOR GENERAL
AGREED-UPON PROCEDURES FOR
CORPORATION FOR NATIONAL AND COMMUNITY SERVICE
GRANTS AWARDED TO
EQUAL JUSTICE WORKS**

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EXECUTIVE SUMMARY

The Office of Inspector General (OIG), Corporation for National and Community Service (Corporation), contracted with Cotton & Company LLP to perform agreed-upon procedures to assist the OIG in grant cost and compliance testing of Corporation-funded Federal assistance provided to Equal Justice Works (EJW).

SUMMARY OF RESULTS

As a result of applying our procedures, we questioned claimed Federal-share costs of \$22,637, education awards of \$39,350, and student loan accrued interest awards of \$8,357. A questioned cost is an alleged violation of a provision of law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds or a finding that, at the time of testing, includes costs not supported by adequate documentation. Detailed results of our agreed-upon procedures are presented in Exhibit A and the supporting schedules.

Participants who successfully complete terms of service under AmeriCorps grants are eligible for education awards and, in some cases, accrued interest awards from the Corporation's National Service Trust. These award amounts are not funded by Corporation grants and thus are not included in claimed costs. However, as part of our agreed-upon procedures, and using the same criteria as used for the grantees claimed costs, we determined the effect of our findings on eligibility for education-awards and accrued interest awards from the National Service Trust.

Grant compliance results are summarized in Exhibit B. Following is a summary of those testing results.

1. Some member contracts were not signed before applicants started service, and one member continued to serve past the contract end date.
2. Some member position descriptions included activities that are inconsistent with the regulations and grant terms.
3. EJW did not have documentation to demonstrate that some member evaluations were conducted.
4. EJW and its subgrantees had weaknesses in member timekeeping procedures.
5. EJW did not always complete member enrollment and exit forms and enter them into the Corporation's Web-Base Reporting System (WBRS) in accordance with AmeriCorps requirements.
6. EJW and its subgrantees did not always conduct orientation training or document member attendance at orientation.
7. EJW and subgrantee financial management systems did not adequately account for and report grant costs in accordance with Federal requirements.
8. EJW and its subgrantees did not ensure the allowability of claimed Federal and match grant costs.

9. EJW did not ensure that subgrantees complied with AmeriCorps requirements for eligibility, unemployment insurance, and living allowance payments.
10. EJW did not have written procedures to perform subgrantee site visits or desk reviews within a specific period and did not have procedures to obtain subgrantee audit management letters or perform necessary reconciliations.

AGREED-UPON PROCEDURES SCOPE

We performed the agreed-upon procedures detailed in the OIG's Agreed-Upon Procedures (AUP) Program for Corporation Awards to Grantees (including Subgrantees), dated July 2007. Our procedures covered testing of the following grants:

Program	Award No.	Award Period	AUP Period	Total Award
AmeriCorps National	03NDHDC001	08/13/03-03/31/07	08/13/05-03/31/07	\$931,945
AmeriCorps National	06NDHDC002	08/01/06-07/31/09	08/01/06-09/30/07	\$1,084,413

The OIG's agreed-upon procedures program included:

- Obtaining an understanding of EJW and its subgrantee monitoring process.
- Reconciling claimed grant costs and match costs of EJW and a sample of subgrantees to their accounting systems.
- Testing subgrantee member files to verify that records supported eligibility to serve and allowability of living allowances and education awards.
- Testing compliance of EJW and a sample of subgrantees on selected AmeriCorps Provisions, and award terms and conditions.
- Testing claimed grant costs and match costs of EJW and a sample of subgrantees to ensure:
 - AmeriCorps grants were properly recorded;
 - Costs were properly matched; and
 - Costs were allowable and supported in accordance with applicable Office of Management and Budget (OMB) circulars, grant provisions, award terms and conditions.

We conducted our fieldwork at EJW (Pro Bono Legal Corps and Katrina Corps programs) and two of its fourteen subgrantee sites, Legal Aid Foundation of Los Angeles (LAFLA) and Public Counsel, from November 2007 through March 2008.

BACKGROUND

The Corporation supports national and community service programs that provide full- and part-time opportunities for Americans to engage in service and provides educational opportunities to participants. The AmeriCorps program is one of the Corporation's three major service initiatives. Approximately three-quarters of all AmeriCorps grant funding is awarded to state service commissions, which award competitive grants to nonprofit groups that then recruit

AmeriCorps members to respond to local needs. The Corporation distributes most of the balance of its funding directly to multi-state and national organizations such as EJW through a competitive grant process.

EJW is a not-for-profit organization founded in 1986 as the National Association for Public Interest Law (NAPIL). EJW partners with law schools, law firms, corporate legal departments, and nonprofit organizations to promote public service and to provide attorneys with training and skills to offer effective legal representation to vulnerable populations. EJW promotes opportunities for law students and new law graduates to engage in public service through one of its five programs.

AmeriCorps National Direct grants are annual awards to EJW to recruit and select members who, after successfully completing service, earn an education award. In Program Year (PY) 2005-2006, EJW operated the Katrina Corps and Pro Bono Legal Corps programs. In PY 2006-2007, it operated the Pro Bono Legal Corps program. EJW also passed AmeriCorps National awards to eligible subgrantees. EJW AmeriCorps grants funded 338 AmeriCorps members in PY 2005-2006 and 382 in PY 2006-2007.

EXIT CONFERENCE

The contents of this report were discussed with representatives from EJW and the Corporation on May 16, 2008. We summarized EJW comments in appropriate sections of this report and included its full comments in Appendix A. The Corporation only responded to one of the findings. The Corporation will respond to all findings and recommendations in its management decision after the final report is issued. We summarized Corporation comments in the appropriate section of this report and included its full comments in Appendix B.



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June 13, 2008

Office of Inspector General
 Corporation for National and Community Service

**INDEPENDENT ACCOUNTANTS' REPORT ON
 APPLYING AGREED-UPON PROCEDURES**

Cotton & Company LLP performed the procedures detailed in the OIG's Agreed-Upon Procedures Program for Corporation Awards to Grantees (including Subgrantees), dated July 2007. These procedures were agreed to by the OIG solely to assist it in grant cost and compliance testing of Corporation-funded Federal assistance provided to OCS for the awards detailed below.

This agreed-upon procedures engagement was performed in accordance with standards established by the American Institute of Certified Public Accountants (AICPA) and generally accepted government auditing standards. The sufficiency of these procedures is solely the responsibility of the OIG. Consequently, we make no representation regarding the sufficiency of the procedures, either for the purpose for which this report has been requested or any other purpose.

Our procedures covered testing of the following grants:

Program	Award No.	Award Period	AUP Period	Total Award
AmeriCorps National	03NDHDC001	08/13/03-03/31/07	08/13/05-03/31/07	\$931,945
AmeriCorps National	06NDHDC002	08/01/06-07/31/09	08/01/06-09/30/07	\$1,084,413

We performed testing at EJW (Pro Bono Legal Corps and Katrina Corps programs) and two of its fourteen subgrantees sites, LAFLA and Public Counsel. We selected and tested:

- 45 Federal and 26 match-cost transactions at EJW,
- 56 cost transactions at LAFLA, and
- 20 cost transactions at Public Counsel.

We also tested certain grant compliance requirements by sampling files of 73 EJW and subgrantee members (see table below). We performed all applicable testing procedures in the AUP Program on each sample transaction or member file.

<u>Program</u>	<u>PY 2005-2006</u>	<u>PY 2006-2007</u>
Katrina Corps	12	
Pro Bono Legal Corps	25	25
LAFLA	3	3
Public Counsel	<u>2</u>	<u>3</u>
	<u>42</u>	<u>31</u>

RESULTS OF AGREED-UPON PROCEDURES

We questioned claimed Federal-share costs of \$22,637. A questioned cost is an alleged violation of provision of law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds or a finding that, at the time of testing, includes costs not supported by adequate documentation.

We questioned education awards of \$39,350, and accrued interest awards of \$8,357. Grant participants who successfully complete terms of service under AmeriCorps grants are eligible for education awards and repayment of student loan interest accrued during the term of service from the National Service Trust. These awards amounts are not funded by Corporation grants and thus are not included in claimed costs. As part of our agreed-upon procedures and using the same criteria as claimed costs, we determined the effect of our findings on education and accrued interest award eligibility.

Detailed results of our agreed-upon procedures on claimed costs are presented in Exhibit A and the supporting schedules. Results of testing grant compliance are summarized in Exhibit B. We were not engaged to, and did not perform an examination, the objective of which would be expression of an opinion on the subject matter. Accordingly, we do not express such an opinion. Had we performed other procedures, other matters might have come to our attention that would have been reported.

This report is intended solely for the information and use of the OIG, the Corporation, EJW, and the Congress and is not intended to be and should not be used by anyone other than these specified parties.

COTTON & COMPANY LLP



Michael W. Gillespie, CPA, CFE
Operations Managing Partner

EXHIBIT A

**EQUAL JUSTICE WORKS
CORPORATION FOR NATIONAL AND COMMUNITY SERVICE AWARDS
CONSOLIDATED SCHEDULE OF CLAIMED AND QUESTIONED COSTS**

Award	Awarded	Claimed	Questioned	Questioned		Ref
				Education Awards	Accrued Interest	
03NDHDC001						
Pro Bono Legal Corps Program	\$261,140	\$249,658	\$5,437	\$1,000		Sch A
Katrina Corps Program				4,000	\$315	Ex B (1)
LAFLA	63,000	63,000	13,598	9,450	2,028	Sch B
Public Counsel	41,953	41,953				
Others	565,852	453,355				
Prior-Year Adjustment ¹		<u>26,086</u>				
Totals	<u>\$931,945</u>	<u>\$834,052</u>	<u>\$19,035</u>	<u>\$14,450</u>	<u>\$2,343</u>	
06NDHDC002						
Pro Bono Legal Corps Program	\$338,037	\$250,694	\$1,856	\$6,000		Sch A
LAFLA	62,999	62,755	1,746	14,175	\$4,021	Sch B
Public Counsel	63,000	63,000		4,725	1,993	Ex B (1)
Others	<u>620,377</u>	<u>509,255</u>				
Totals	<u>\$1,084,413</u>	<u>\$885,704</u>	<u>\$3,602</u>	<u>\$24,900</u>	<u>\$6,014</u>	
Totals	<u>\$2,016,358</u>	<u>\$1,719,756</u>	<u>\$22,637</u>	<u>\$39,350</u>	<u>\$8,357</u>	

¹ Includes PY 2004-2005 payments and adjustments made at grant closeout.

SCHEDULE A

**EQUAL JUSTICE WORKS
SCHEDULE OF CLAIMED AND QUESTIONED COSTS
PRO BONO LEGAL CORPS PROGRAM**

	PY 2005- 2006 Totals	PY 2006- 2007 Totals	Notes
Claimed Federal Costs	\$249,658	\$250,694	
Questioned Federal Costs:			
Unallowable costs, prior periods	\$2,531		1
Unsupported costs, conference registration	1,900	800	2
Unallowable costs, meals	1,006	237	3
Unallowable costs, gifts		819	4
Total Questioned Federal Costs	<u>\$5,437</u>	<u>\$1,856</u>	
Questioned Education Awards:			
Returning members, no prior-year final evaluation	\$1,000	\$4,000	5
Service before signed contract		<u>2,000</u>	6
Total Questioned Education Awards	<u>\$1,000</u>	<u>\$6,000</u>	

1. EJW claimed \$2,531 of prior-period expenses as detailed below:

Description	Amount
Mississippi Industries For the Blind, Clothing for PY 2004-2005 members	\$2,262
Dell Server purchased during PY 2004-2005	<u>269</u>
Total	<u>\$2,531</u>

These expenses were incurred in June 2005; EJW's PY 2005-2006 budget period did not, however, start until August 13, 2005. 45 C.F.R. §2543, *Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*, Subpart C. 28., *Period of availability of funds*, states that, where a funding period is specified, a recipient may charge the grant only allowable costs resulting from obligations incurred during the funding period. EJW officials considered the AmeriCorps funding to be continuation funding and not funding required to be spent during a specific funding period. We questioned the \$2,531.

2. EJW claimed \$2,700 (\$1,900 in PY 2005-2006 and \$800 in PY 2006-2007) of unsupported conference registration fees. It provided documentation to support payment of the expense, but did not provide documentation to indicate the registration fee amount. OMB Circular A-122, Attachment A. *General Principals*, Paragraph A.2. *Factors affecting allowability of costs*, states that an award cost must be adequately documented to be allowable. We questioned \$2,700.

3. EJW claimed \$1,243 (\$1,006 in PY 2005-2006 and \$237 in PY 2006-2007) of meal expenses as detailed below.

PY	Description	Amount
2005-2006	Grillfish (Communications Lunch)	\$43
2005-2006	M Bable (Program Director Lunch)	509
2005-2006	Cap City (AmeriCorps Attorney Lunch)	454
2006-2007	Broadway Grill (Dinner)	80
2006-2007	AmeriCorps Attorney and Staff (Dinner)	<u>157</u>
Total		<u>\$1,243</u>

The documentation provided by EJW indicated that the claimed costs were for a lunch involving its Communications Director and the EJW AmeriCorps Program Director; meals for the EJW AmeriCorps Program Director and an AmeriCorps member during a site visit; and meals for AmeriCorps members and subgrantee program directors during training events. However, we could not determine the allowability of the expenses because the costs were supported by non-itemized credit card receipts. Without itemized receipts, we could not determine compliance with OMB Circular A-122 Appendix B *Selected Items of Costs*, Paragraph 3. *Alcoholic beverages*. Adequate documentation is required by OMB Circular A-122 *Cost Principles for Non-Profit Organizations*, Attachment A. *General Principals*, Paragraph A.2. *Factors affecting allowability of costs*. Additionally, no documentation was provided to demonstrate the site visit meals are necessary for the performance of the award or the costs were not unallowable entertainment cost in accordance with OMB Circular A-122, Appendix B *Selected Items of Costs*, Paragraph 14, *Entertainment Costs*. We questioned \$1,243.

4. EJW claimed \$819 of gifts provided to members and trainers as detailed below:

Description	Amount
Gifts cards for trainers	\$150
Magazine subscriptions for members-member recognition	443
Magazine subscriptions for members-member recognition	149
Gifts for trainers	56
Lunch and gift for trainer	<u>21</u>
Total	<u>\$819</u>

OMB Circular A-122, Attachment B. *Selected Items of Cost*, Paragraph 14, *Entertainment Costs*, states that entertainment costs, including amusement, diversion, and social activities and any costs directly associated with such costs (tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities), are unallowable. We questioned \$819.

5. EJW did not provide an end-of-term evaluation form for one member who served a second term in PY 2005-2006 and four members who served second terms in PY 2006-2007. AmeriCorps Special Provisions 2005-2006, Section IV. D.6. Performance Reviews, requires mid-term and end-of-year member performance evaluations. According to 45 C.F.R. §2522.220(c), Eligibility for Second Term, a participant is not eligible for a second or additional term of service and/or for an AmeriCorps education award without a satisfactory performance evaluation. We

questioned one member's education award of \$1,000 in PY 2005-2006 and the four members' education awards of \$4,000 in PY 2006-2007.

6. Six members started service before signing member contracts (three members in PY 2005-2006 and three members in PY 2006-2007). AmeriCorps Special Provisions (2005-2006) Section IV. C.1. *Member Enrollment Procedures*, states that an individual is enrolled as an AmeriCorps member when he or she signs a member contract. EJW officials said they were unaware of the requirement for members to sign contracts before starting service.

We questioned education awards of \$2,000 for the two members who did not meet minimum service hours required for their education awards when we subtracted the service hours performed before member contracts were signed, as detailed below:

Member	WBRS Hours	Timesheet Hours	Hours Before Signed Contract	Eligible Service Hours	Service Hours Required	Questioned Education Award
1	360	360	144	216	300	\$1,000
2	317	317	168	149	300	\$1,000

EJW's Response: EJW did not agree with all of questioned costs in Notes 1 through 6:

- **Note 1. Prior-Period Costs:** EJW stated that it received permission from its Corporation Grants Officer to claim the \$2,531 of questioned costs.
- **Note 2. Conference Registration Costs:** EJW provided a letter from the American Bar Association detailing amounts paid by EJW to attend the 2006 and 2007 Equal Justice Conferences to support questioned costs.
- **Note 3. Meal Costs:** EJW agreed that \$43 of questioned meal costs was unallowable, but did not agree that the remaining \$1,200 was unallowable. It provided a description of the meals questioned to demonstrate cost allowability. One of the meals cited by EJW was lunches provided to EJW and site staff attending the Project Director's training at the Doubletree Washington on August 11, 2005.
- **Note 4. Gifts to Members and Trainers:** EJW stated that gifts are allowable, are not entertainment related, and saved Federal funds. EJW provided \$25 gift certificates in lieu of charging the \$540 daily rate for trainers and consultants. In lieu of allowable recognition items that can cost up to \$90 per item, EJW provided lower-cost magazine subscriptions that averaged \$20 per member.
- **Note 5. Returning Members Without Prior-Year Final Evaluation.** EJW stated it has documented that all tested members successfully completed their terms. While it was unable to produce written evaluations for all of the members in question, members' supervisors attested that the evaluations were done. EJW noted that acceptance of members in the second year was evidence that members successfully completed their first terms of service.

- **Note 6. Service Before Signed Contract:** EJW stated that it documented that all tested members successfully completed their terms, and EJW was in substantial compliance with AmeriCorps Provisions on member enrollments.

Accountants' Comments: We continue to make the recommendations described in Exhibit B for the above questioned costs. Our comments on Notes 1 through 3 follow:

- **Note 1. Prior-Period Costs:** EJW stated that it received permission from its Corporation Grants Officer to claim \$2,531 of prior-period costs, but did not provide documentation, such as an email or memorandum summarizing a telephone conversation, to support Corporation Grants Officer approval of prior-period costs.
- **Note 2. Conference Registration Costs:** EJW provided a letter from the American Bar Association to support questioned costs. This letter, however, showed that EJW paid the American Bar Association \$20,260 in 2006 and \$7,800 in 2007 to attend the Equal Justice Conferences. The documentation did not support the amount of the registration fee or the amount allocated to the grant.
- **Note 3. Meal Costs:** We questioned five items for which we could not determine eligibility. EJW agreed that one item, \$43, was unallowable, but disagreed that the remaining \$1,200 was unallowable. In response to the draft report, EJW provided descriptions of five transactions, but it did not provide itemized receipts to allow us to evaluate allowability.

SCHEDULE B

**EQUAL JUSTICE WORKS
SCHEDULE OF CLAIMED AND QUESTIONED COSTS
LEGAL AID FOUNDATION OF LOS ANGELES**

	PY 2005- 2006 Totals	PY 2006- 2007 Totals	Notes
Claimed Federal Costs	\$63,000	\$62,755	
Questioned Federal Costs:			
Returning member no prior-year final evaluation	\$10,393		1
Unallowable lump sum living allowance payments	1,880	1,561	2
Unsupported costs, member and staff travel	1,192		3
Unallowable costs, unemployment insurance	<u>133</u>	<u>185</u>	4
Total Questioned Federal Costs	<u>\$13,598</u>	<u>\$1,746</u>	
Questioned Education Awards:			
Returning member, no prior-year final evaluation	\$4,725		1
Service before signed contract	<u>4,725</u>	<u>\$14,175</u>	5
Total Questioned Education Awards	<u>\$9,450</u>	<u>\$14,175</u>	
Questioned Accrued Interest	<u>\$2,028</u>	<u>\$4,021</u>	6

1. LAFLA did not provide an end-of-term evaluation from PY 2004-2005 for one member who served a second term in PY 2005-2006. AmeriCorps Special Provisions 2005-2006, Section IV. D.6. *Performance Reviews*, requires mid-term and end-of-year member performance evaluations. According to 45 C.F.R. § 2522.220(d), a participant is not eligible for a second or additional term of service and/or for an AmeriCorps education award without a satisfactory performance evaluation. We questioned the member's PY 2005-2006 Federal-share living allowance and fringe benefits of \$10,393 and education award of \$4,725.

2. LAFLA claimed \$1,880 and \$1,561 of lump-sum living allowance payments provided to two PY 2005-2006 members and two PY 2006-2007 members upon completion of their service. AmeriCorps Special Provisions (2005-2006), Section IV. I.1. *Living Allowance Distribution*, states that programs should pay the living allowance in regular increments, such as weekly or bi-weekly, paying an increased increment only for increased living expenses, such as food, housing, or transportation, and that the program is not permitted to provide a "lump sum" payment of the remaining living allowance upon a member's early completion of a term of service.

In addition, payments should not fluctuate based on the number of hours served in a particular period and must cease when a member concludes a term of service. Further, if a member enrolls after the program start date, the program may not increase the member's incremental payment. LAFLA officials considered the

members to be entitled to living allowances specified in the member contract, even if the members completed service requirements before their contract end dates. We questioned the \$1,880 and \$1,561 of lump sum living allowance payments.

3. LAFLA claimed unsupported member and staff travel expenses of \$1,192 in PY 2005-2006. LAFLA provided a schedule showing the amount of member and staff travel claimed by month and general ledger accounting reports. The general ledger accounting reports did not, however, support claimed member and staff travel expenses. LAFLA also did not provide any documentation, such as invoices or expenses reports, to support member and staff travel expenses. According to 45 C.F.R. § 2543.21, *Standards for financial management systems*, subsection (b), grantee financial management systems must provide accurate, current, and complete disclosure of financial results of each Federally-sponsored program. We questioned the \$1,192 of member and staff travel expenses.
4. LAFLA claimed Federal member unemployment insurance expenses of \$133 in PY 2005-2006 and \$185 of PY 2006-2007. Unemployment insurance expenses are unallowable in accordance with AmeriCorps Special Provisions (2005-2006), Section IV. I.2.d. *Unemployment Insurance*, which states:

The U.S. Department of Labor ruled on April 20, 1995 that Federal unemployment compensation law does not require coverage for members because no employer-employee relationship exists. The Grantee cannot charge the costs of unemployment insurance taxes to the Grant unless mandated by state law. Programs are responsible for determining the requirements of state law by consulting their State Commission, legal counsel or the applicable state agency.

Further, the California Office of the Governor, California Volunteers website states:

For most purposes, AmeriCorps members are considered to be participants in a national service program, not employees. For example, state law specifically states that AmeriCorps members are not eligible for unemployment benefits.

We questioned \$318.

5. Five members started service before signing member contracts (two in PY 2005-2006 and three in PY 2006-2007). AmeriCorps Special Provisions (2005-2006) Section IV. C.1. *Member Enrollment Procedures*, states that an individual is enrolled as an AmeriCorps member when he or she signs a member contract. LAFLA stated that it followed contract law and entered into oral agreements with the members on their first days of service. LAFLA officials said they were unaware of the requirement that members sign contracts before starting service.

We questioned education awards for the five members who did not meet minimum service hours required for full-time, part-time, and minimum-time education awards when we subtracted the service hours performed before member contracts were signed, as detailed below. We questioned the education awards of \$4,725 for one of the PY 2005-2006 members and \$14,475 for three of the PY 2006-2007 members. The education award for one of the PY 2005-2006 members was questioned in Note 1 above.

Member	WBRS Hours	Timesheet Hours	Hours Before Signed Contract	Eligible Service Hours	Service Hours Required for Award	Questioned Education Award
1	1,714.00	1,714.00	127.00	1,587.00	1,700.00	Note 1
2	1,700.00	1,700.00	67.00	1,633.00	1,700.00	\$4,725
3	1,779.50	1,748.05	77.80	1,670.25	1,700.00	\$4,725
4	1,702.50	1,702.50	167.80	1,534.70	1,700.00	\$4,725
5	1,732.75	1,732.66	35.25	1,697.51	1,700.00	\$4,725

6. The Corporation paid accrued interest awards to four LAFLA members whose education awards were questioned in Notes 1 and 5.

According to 45 C.F.R. §2529, *Payment of Accrued Interest*, subsection 10(a), the Corporation will pay interest that accumulates on an individual's qualified student loan if the member successfully completes a term of service in an approved AmeriCorps position.

We questioned accrued interest payments made by the Corporation of \$6,049 (\$2,028 for one PY 2005-2006 member and \$4,021 for three PY 2006-2007 members), because the members did not complete their terms of service.

EJW's Response: EJW disagreed with all questioned costs except for \$1,561 in lump-sum living allowance payments to PY 2006-2007 members and \$318 of unemployment insurance payments for PY 2005-2006 and PY 2006-2007 members (see Notes 2 and 4). It did not agree with the amount of questioned member and staff travel costs. EJW stated that it examined all travel and training expenses for the two years, and it appeared to EJW that some travel expenses were reported as training expenses. EJW's responses for the questioned costs and education award in Notes 1, 5, and 6 are summarized in Exhibit B.

Accountants' Comments: We re-examined unsupported member and staff travel expenses based on EJW's response and confirmed that member and staff travel expenses of \$735 in PY 2005-2006 and \$819 in PY 2006-2007 were identified as training expenses on documents provided by LAFLA. We subtracted these costs from member training match costs and added them to unsupported Federal member travel costs. As a result, PY 2005-2006 unsupported costs were decreased to \$1,192 and unsupported PY 2006-2007 costs were eliminated.

**EQUAL JUSTICE WORKS
COMPLIANCE RESULTS**

1. Some member contracts were not signed before applicants started service, and one member continued to serve past the contract end date.

AmeriCorps applicants become members only after signing a contract; therefore, service hours recorded before signing do not count toward earning an education award. Service hours were recorded for periods before member contracts were signed and after a contract ended. Service hours earned while meeting AmeriCorps member requirements were insufficient to warrant education awards.

Program	Contracts Signed After Service Start	Service After Contract End Date	Questioned Education Awards	Questioned Accrued Interest Awards
Katrina Corps	5		\$4,000	\$315
Pro Bono Legal Corps	6		2,000	
LAFLA	5		18,900	4,021
Public Counsel	<u>1</u>	<u>1</u>	<u>4,725</u>	<u>1,993</u>
Totals	<u>17</u>	<u>1</u>	<u>\$29,625</u>	<u>\$6,329</u>

Public Counsel officials stated that the member who performed service after the contract end date served more than 1,700 hours, but recorded only enough hours to reach the 1,700 requirement. After we identified this issue, the Public Counsel member and the member's supervisor provided written statements concerning the member's service hours. The member stated that he was unaware that he was allowed to record travel time to and from the October 2006 Equal Justice Works AmeriCorps conference and thus did not record 17 hours spent on this activity. The supervisor stated that the member worked in excess of 1,700 hours and continued to serve full time for two weeks after the member was exited from WBRS.

In addition, we noted that:

- The original member contract for one PY 2006-2007 Pro Bono Legal Corps member was missing.
- The member contract for one PY 2005-2006 Pro Bono Legal Corps member was not dated by the member and supervisor.
- The date on which one PY 2005-2006 Pro Bono Legal Corps member signed a member contract was amended on the document, but the change was not initialed.
- Whiteout was used to make changes to the contracts of one PY 2005-2006 Public Counsel member and one PY 2006-2007 Public Counsel member.

AmeriCorps Special Provisions (2005-2006), Section IV. C.1.b. *Member Enrollment Procedures*, stipulates that AmeriCorps programs are required to sign a member contract

with an individual or otherwise enter a legally enforceable commitment as defined by state law before enrolling a member. Further, members are not considered enrolled in a program until a contract is signed, and therefore service hours recorded before signing a member contract or after contract expiration are not counted toward member education awards.

Recommendations:

- 1a. The Corporation train EJW on procedures to ensure that it obtains a signed and dated contract stipulating all member responsibilities and rights before a member begins service and retention requirements for member contracts in accordance with 45 C.F.R. § 2543.53 *Retention and access requirements for records*.
- 1b. The Corporation require EJW to strengthen its training and monitoring of member contracts for compliance with AmeriCorps Provisions.
- 1c. The Corporation disallow and, if already used, recover education awards made to members who did not serve the minimum required service hours.
- 1d. The Corporation disallow and recover any accrued interest awards paid or awarded by the National Service Trust for those members with questioned education awards.

EJW's Response:

- EJW welcomes the opportunity to work with the Corporation to improve these systems.
- EJW certifies that all members listed in the report successfully completed full AmeriCorps terms. Equal Justice disagrees with the recovery of the education awards for these members.

Corporation's Response: The Corporation does not interpret the grant provisions as disallowing service hours solely because they were performed prior to the signing of a member contract; therefore, it does not agree that the hours served before the member signed a contract should be deducted.

Accountants' Comments: The provisions describe the order of events necessary for enrollment. The first event is the signing of the member contract. The contract is the commitment from the member to serve. Under the grant provision, the contract establishes the required terms and timeframes of service expected from both parties from that point forward. Recognition of service prior to the contract creates an illusory promise on both sides of the agreement, and creates confusion as to the start date for the term of service, coverage under the health insurance plans and state workmen's compensation eligibility, as well as responsibility for personal injury.

There should be no confusion over the start date for calculating accrued interest awards and service hours for education awards. The Corporation has not offered an alternative event that specifies the date an applicant becomes a member. Regulations also allow for pre-member orientation so that an applicant can be on site without being a member. Something has to occur for which there is no doubt that the person is, in fact, a member. The onus is on the Corporation to state positively what it is that distinguishes a member from an

applicant. What is this event/date if other than the member contract and the criteria quoted in the AmeriCorps Provisions?

In addition to describing the terms of service, EJW's contracts include rules of conduct, prohibited activities, grievance procedures and disclosure for a drug-free workplace. Grantees commonly distribute other disclosures at the same time the member contract is signed, for example, the Civil Rights Non Harassment Policy and the Grant Program Civil Rights Policy. We believe that hours served prior to the execution (signing) of a contract containing the related required disclosures results in unreasonable and unnecessary risk for all parties involved.

Hours served before the start dates are not valid service hours. We continue to question the costs because the members did not serve the required number of hours to complete their term of service when hours recorded before the start date are deducted from the total reported service hours. The OIG is continuing to work with the Corporation on the issue of hours serviced before signing member contracts.

2. Some member position descriptions included activities that are inconsistent with the regulations and grant terms.

We noted that position descriptions for one PY 2005-2006 and three PY 2006-2007 Pro Bono Legal Corps members included activities that are inconsistent with grant terms and prohibited by regulation as follows:

- Assisting with legislative advocacy
- Initiating large-scale impact litigation and engaging in public advocacy
- Engaging in advocacy with government officials
- Engaging in legislative advocacy for nursing home residents, or for legislation to strengthen protections for low-income debtors.

The members served minimum terms and received \$300 education awards. We did not question the education awards.

According to 45 C.F.R. § 2520.65, *What activities are prohibited in AmeriCorps subtitle C programs?*, staff and members may not engage in activities attempting to influence legislation and participate in or endorse events or activities that are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials.

Recommendations:

- 2a. The Corporation provide guidance to EJW and its subgrantees to ensure they understand the allowable activities of the members. All member contracts for the Pro Bono Legal Corps should be reviewed to ensure member activities meet the purpose of the grant.
- 2b. The Corporation require EJW to strengthen its training and monitoring procedures to ensure that members do not engage in prohibited activities.

EJW's Response: EJW stated that it scrupulously follows AmeriCorps regulations regarding prohibited activities and carefully reviews all contracts to ensure that member

activities meet grant purposes. EJW disagrees that it needs to strengthen its training and monitoring procedures.

Accountants' Comments: We continue to make the recommendations described above.

3. EJW did not have documentation to demonstrate that some member evaluations were conducted.

EJW did not provide documentation showing that some members received final evaluations, as follows:

Program	Tested	Missing Documentation	
		PY 2005-2006	PY 2006-2007
Katrina Corps	12	12	
Pro Bono Legal Corps	<u>50</u>	<u>25</u>	<u>25</u>
Totals	<u>62</u>	<u>37</u>	<u>25</u>

After we identified this issue, EJW provided copies of letters from organizations that hosted the members as evidence of evaluations for two Katrina Corps members and eight Pro Bono Legal Corps members. The evaluations provided were not signed by the members and some supervisors or were undated or dated in December 2007 and January 2008, after the issue was brought to the attention of EJW. In addition, some of the did not indicate if the members completed the required number of hours and satisfactorily completed assignments.

AmeriCorps Special Provisions (2005-2006), Section IV. D.6. *Performance Reviews*, states that grantees must conduct and keep a record of at least a mid- and end-of-term written evaluation of each member's performance for full- and half-time members and an end-of-term written evaluation for less than half-time members to document that the member has:

- Completed the required number of hours;
- Satisfactorily completed assignments; and
- Met other performance criteria communicated at the beginning of the service term.

EJW required the host organizations to conduct member evaluations, but did not require the host organization to submit the completed evaluations to EJW. EJW officials stated that completion of the signed final timesheets by the site supervisor constituted certification of a successful term, and certification that a member had not completed either program requirements or hours was the equivalent to a negative evaluation.

We identified EJW and LAFLA members without final evaluations who returned for a second year of service, as follows;

- Five Pro Bono Legal Corps members without prior-year final evaluations returned for second terms of service. One PY 2005-2006 member was a returning member from PY 2004-2005, and four PY 2006-2007 members were returning members from PY 2005-2006.
- One LAFLA member without a prior-year final evaluation was a returning member in PY 2005-2006.

Evaluations are necessary to ensure that members are eligible for additional service terms, and that grant objectives have been met. Without evaluations, members are not eligible to serve an additional term of service. We questioned education awards of \$5,000 for the five Pro Bono Legal Corps members, as explained in Schedule A. We questioned the Federal share of member PY 2005-2006 living allowances and related benefits of \$10,393, and education awards of \$4,725, as explained in Schedule B.

Recommendations:

- 3a. The Corporation train EJW on the requirements for member evaluations and ensure that EJW strengthen its training and monitoring procedures for conducting and documenting member evaluations.
- 3b. The Corporation verify the implementation of EJW's training and monitoring procedures for member evaluations.
- 3c. We recommend that the Corporation disallow and recover the questioned costs and the related administrative costs.
- 3d. The Corporation disallow and, if already used, recover education awards certified for members who did not receive final evaluations.
- 3e. The Corporation disallow and recover any accrued interest awards paid or awarded by the National Service Trust for those members with questioned education awards.

EJW's Response:

- EJW has strengthened policies and procedures regarding completion of mid-term and final evaluations and welcomes the opportunity to work with the Corporation to strengthen training and monitoring procedures.
- EJW notified potential Summer Corps members and supervisors in May 2008 that final member evaluations must be submitted to EJW to successfully complete the program and receive an education award.
- EJW and LAFLA certify that the specific member listed in the report received evaluations in compliance with AmeriCorps provisions and successfully completed a full AmeriCorps term. EJW challenges the recovery of living allowance and related administrative costs for this member.
- EJW certifies that all members listed in the report received evaluations and successfully completed full AmeriCorps terms. EJW challenges the recovery of education awards and accrued interest awards, for these members.

Accountants' Comments: We continue to make the recommendations described above.

4. EJW and its subgrantees had weaknesses in member timekeeping procedures.

Katrina Corps, Pro Bono Legal Corps, LAFLA, and Public Counsel timesheets were not always accurately recorded in WBRS. We tested timesheets for 73 members at EJW,

LAFLA, and Public Counsel. Service hours recorded in WBRS were not supported by member timesheets as follows:

Program	Tested	PY 2005-2006	PY 2006-2007	Totals
Katrina Corps	12	1	0	1
Pro Bono Legal Corps	50	1	1	2
LAFLA	6	0	1	1
Public Counsel	<u>5</u>	<u>1</u>	<u>3</u>	<u>4</u>
Totals	<u>73</u>	<u>3</u>	<u>5</u>	<u>8</u>

During testing, we noted weaknesses in timekeeping procedures. A summary of timesheet discrepancies by program follows:

Weakness	Katrina Corps	Pro Bono Legal Corps	LAFLA	Public Council	Totals
Signed Before Hours Served	1	3	1		5
WBRS Start Date Incorrect	2	6			8
Timesheet Missing	1	3			4
Not Original	1	5		1	7
Prepared in Pencil or Whiteout	2	9	4	1	16
Changes Not Initialed	5	20	2	2	29
Missing Member or Supervisor Initials	<u>5</u>	<u>3</u>	<u>-</u>	<u>-</u>	<u>8</u>
Totals	<u>17</u>	<u>49</u>	<u>7</u>	<u>4</u>	<u>77</u>

EJW, LAFLA, and Public Counsel did not have adequate policies and procedures to ensure that members and/or supervisors initialed all timesheets and corrections, refrained from using pencil and whiteout, obtained and maintained original timesheets, signed timesheets only after completing service hours, and checked accuracy of recorded hours.

AmeriCorps requirements do not specifically address timesheet procedures. It is, however, good business practice to maintain original documents, initial changes, make corrections without pencil or whiteout, sign and date documents, and check the accuracy of hours recorded on timesheets. Further, PY 2005-2006 Service Contract, XI, Host Site Responsibilities, B., requires host sites to ensure that Summer Corps members keep simple but accurate time-and-attendance records by regularly reviewing and signing the member's time log throughout the summer.

Without procedures to verify member activities or timesheet accuracy, the potential exists for members to perform prohibited activities or receive education awards to which they are not entitled. By initialing changes, accountability is maintained and timesheets are consistent with member and management intentions. EJW officials stated that all of the issues cited above would be eliminated as WBRS is taken offline, and EJW is required to use the electronic timekeeping function of the replacement My AmeriCorps system.

Recommendations:

- 4a. The Corporation should provide guidance to EJW on proper member timekeeping procedures.

- 4b. The Corporation require EJW to strengthen its training and monitoring to ensure that subgrantees maintain proper member timesheets.
- 4c. The Corporation should verify implementation of EJW’s timesheet training and monitoring.

EJW’s Response: EJW welcomes the opportunity to work with the Corporation in implementing and training subgrantees on new AmeriCorps timekeeping systems.

Accountants’ Comments: We continue to make the recommendations described above.

5. EJW did not always complete member enrollment and exit forms and enter them into the Corporation’s WBRs in accordance with AmeriCorps requirements.

We tested enrollment and exit forms for 73 members at EJW, LAFLA, and Public Counsel. EJW did not enter member enrollment and exit forms into WBRs within the required 30-day timeframe, as follows:

Program	Enrollment	Exit
Katrina Corps	9	8
Pro Bono Legal Corps	<u>17</u>	<u>20</u>
Totals	<u>26</u>	<u>28</u>

We also identified enrollment and exit forms that were missing, undated, unsigned by members, signed after the members started service, signed before the members completed service, and changed but not initialed, as follows:

Program	Missing	Not Dated	Signed After Service Start	Signed Before Service End	Not Original	Changes Not Initialed
Katrina Corps	1		5			
Pro Bono Legal Corps	<u>2</u>	<u>1</u>	<u>4</u>	<u>7</u>	<u>4</u>	<u>1</u>
Totals	<u>3</u>	<u>1</u>	<u>9</u>	<u>7</u>	<u>4</u>	<u>1</u>

AmeriCorps Special Provisions (2005-2006), Section IV. E.2. *Notice to the Corporation’s National Service Trust*, requires that grantees notify the Corporation within 30 days of a member’s enrollment and/or completion of service. AmeriCorps General Provisions (2005-2006) Section V. E. *Retention of Records*, requires grantees to retain all program records for 3 years from the date of submission of the final Financial Status Report (FSR). Without timely completion and submission of enrollment and exit forms, the Corporation cannot maintain accurate member records.

AmeriCorps requirements do not specifically address procedures for preparing forms. It is, however, good business practice to maintain original forms, initial changes, and date forms.

Recommendations:

- 5a. The Corporation train EJW proper completion of member enrollment and exit forms. Also, EJW needs to strengthen training and monitoring of sites for member forms.
- 5b. The Corporation verify that member forms are properly completed and submitted in accordance with grant requirements.

EJW's Response: EJW welcomes the opportunity to work with the Corporation to continue to improve its timely completion of enrollments and exits.

Accountants' Comments: We continue to make the recommendations described above.

6. EJW and its subgrantees did not always conduct orientation training or document member attendance at orientation.

EJW, LAFLA, and Public Counsel did not conduct or could not provide documentation to demonstrate that members received orientation covering the AmeriCorps program and requirements before starting service, as follows:

- EJW could not provide documentation to show that the following received orientation training: one PY 2005-2006 Katrina Summer Corps member, six PY 2005-2006 Pro Bono Legal Corps members, and eight PY 2006-2007 Pro Bono Legal Corps members. EJW officials explained that the members received orientation, but incorrectly reported training hours as service hours on their timesheets.
- LAFLA did not conduct an orientation before one PY 2005-2006 member started service. LAFLA officials explained that it waived the orientation requirement for the member, who was returning for a second term of service and had attended orientation during the prior program year.
- Public Counsel could not provide documentation to demonstrate that one member from PY 2005-2006 and one from PY 2006-2007 received orientation before starting service. Public Counsel stated that it had conducted orientation, but had no procedures to document member attendance.

AmeriCorps Special Provisions (2005-2006), Section IV. D.3. *Training, Supervision, and Support*, states that grantees must conduct an orientation for members and comply with any pre-service orientation or training required by the Corporation. In addition, grantees are required to provide members with training, skills, knowledge, and supervision necessary to perform tasks required in their assigned project positions, including specific training in a particular field and background information on the community served.

Recommendations:

- 6a. The Corporation provide guidance to EJW on procedures to ensure that EJW programs and subgrantees conduct, maintain, and retain documentation to support member attendance at orientation.

- 6b. The Corporation require EJW to strengthen its training and monitoring procedures of orientation requirements for EJW programs and subgrantees. The Corporation should verify implementation of the orientation procedures.

EJW's Response: EJW does not agree that orientations were not conducted or documented in accordance with the AmeriCorps provisions and welcomes verification from the Corporation of its compliance. EJW stated that the Provisions do not dictate a timeframe within which the orientation must be conducted, and that one LAFLA PY 2005-2006 member did not receive an orientation in his second year, because the member had previously received training in all topics required by the provisions. EJW stated that, in addition to onsite orientation at the subgrantee level, it provides telephone orientation to new AmeriCorps fellows.

Accountants' Comments: We continue to make the recommendations described above. As noted above, AmeriCorps Provisions require a pre-service orientation. It is not reasonable to consider an orientation held two months after a member starts service to be a pre-service orientation. Further, AmeriCorps Provisions require orientations for all members, even if they are returning members. EJW did not provide documentation to support that an onsite orientation was conducted or that it made telephone orientation calls to new AmeriCorps members.

7. EJW and subgrantee financial management systems did not adequately account for and report grant costs in accordance with Federal requirements.

Public Counsel and LAFLA did not adequately account for and report grant costs as follows:

- Public Counsel used estimates to report expenditures on its Periodic Expense Report (PER) instead of using actual expenditures from its accounting system. Public Counsel officials said they were unaware that reporting one-twelfth of budget for expenditures on its monthly PER was inappropriate until EJW identified the issue. In addition, Public Counsel did not segregate AmeriCorps and non-AmeriCorps costs or Federal and match costs in its accounting system. To prepare the reconciliation of actual expenditures for our testing, the AmeriCorps costs were identified from transaction level detail and entered into an excel spreadsheet with budget line items. The AmeriCorps costs were entered into each budget line item and any excess costs were entered as match. In the cases where AmeriCorps costs were less than budgeted costs, AmeriCorps costs were entered as Federal costs to maximize grant funds.
- Public Counsel's accounting system supported more expenditures than were claimed, but did not reconcile costs to cost categories on its last PER in PY 2005-2006 and PY 2006-2007.

In PY 2005-2006, Public Counsel reported total expenditures of \$133,240 on its last PER, but its accounting system supported \$137,734. Its accounting system supported less expenditures than were claimed for member health care, member training, and staff training.

Category	Claimed	Supported	Unsupported
Member Health Care	\$10,274	\$2,903	\$7,371
Member Travel	1,500	677	823
Other Costs	1,250	1,176	74
Member Training	700	224	476
Staff Training	<u>400</u>	<u>126</u>	<u>274</u>
Totals	<u>\$14,124</u>	<u>\$5,106</u>	<u>\$9,018</u>

In PY 2006-2007, Public Counsel reported total expenditures of \$147,898 on its last PER, but its accounting system supported \$163,134. Its accounting system supported less expenditures than were claimed for member health care, member training, and staff training.

Category	Claimed	Supported	Unsupported
Member Health Care	\$15,411	\$11,227	\$4,184
Member Training	960	193	767
Staff Training	<u>400</u>	<u>123</u>	<u>277</u>
Totals	<u>\$16,771</u>	<u>\$11,543</u>	<u>\$5,228</u>

Exceptions identified above resulted in overstated total member support and program operating costs on Public Counsel's Financial Status Reports (FSRs). Public Council also incurred excess costs and had substantial overages in match requirements. We did not, however, question Federal costs, because Public Counsel's accounting system commingled AmeriCorps and non-AmeriCorps costs and Federal share and match.

- LAFLA used estimates to report expenditures on its PERs. The estimates were used as the basis for recording AmeriCorps' expenditures in LAFLA's accounting system. We performed alternative procedures to verify if claimed costs were supported and noted the following:

PY 2005-2006	Claimed	Supported	Unsupported
Personnel Costs-Match	\$16,094	\$14,145	\$1,949
Benefits-Match	4,024	3,536	488
Staff Travel-Federal	450		450
Member Travel-Match	602		602
Member Travel-Federal	3,672	2,930	742
Member Training-Match	<u>502</u>	<u>235</u>	<u>267</u>
Totals	<u>\$25,344</u>	<u>\$20,846</u>	<u>\$4,498</u>
PY 2006-2007			
Staff Travel-Match	802	503	299
Totals	<u>\$802</u>	<u>\$503</u>	<u>\$299</u>

Exceptions identified above resulted in overstated match costs claimed on LAFLA's FSRs. LAFLA had, however, substantial overages in match requirements on the grants, and these offset the exceptions identified above. It appears that match overages will enable LAFLA to meet its match

requirement. As a result, we did not question overstated match costs here. We questioned unsupported costs of \$1,192 in PY 2005-2006.

According to 45 C.F.R. § 2543.21, *Standards for financial management systems*, subsection (b), recipient financial management systems must provide for accurate, current, and complete disclosure of financial results of each Federally-sponsored program.

We also noted the following with respect to FSR submissions:

- EJW did not submit FSRs in a timely manner in accordance with grant requirements. AmeriCorps Special Provisions (2005-2006) Section IV. N.1. a. *Financial Status Reports*, requires grantees to submit semi-annual cumulative financial status reports summarizing expenditures during the reporting period using eGrants by April 30 and October 31. Further, AmeriCorps Special Provisions (2005-2006) Section IV. N.1. d. *Final Financial Status Reports*, requires grantees to submit a final FSR that is due within 90 days after the end of the grant. For Award No. 03NDHDC001 three FSRs were submitted late by 8, 22, and 97 days respectively.
- LAFLA and Public Counsel did not submit FSRs in accordance with subgrant requirements. AmeriCorps Special Provisions (2005-2006) Section IV. N.1. a. *Financial Status Reports*, states that grantees are responsible for establishing subgrantee reporting requirements, and that subgrantees must adhere to reporting requirements outlined and communicated by the grantee for the program year. EJW required quarterly FSRs be submitted in WBRS. We identified reports submitted after the subgrantee due dates as follows:

Program	FSRs		
	Not Submitted	Late	Days Late
LAFLA	2	3	5, 28, 108
Public Counsel	<u>1</u>	<u>5</u>	5 to 28
Totals	<u>3</u>	<u>8</u>	

The failure to submit FSRs on time can adversely affect EJW's ability to submit complete and accurate reports to the Corporation.

Recommendations:

- 7a. The Corporation ensure that EJW and subgrantees submit FSRs on time.
- 7b. The Corporation require that EJW train subgrantees to maintain complete, accurate, and timely accounting records.
- 7c. The Corporation disallow and recover questioned costs and related administrative costs.

EJW's Response: EJW and its subgrantees welcome verification from the Corporation that its FSRs are submitted on time. EJW will provide extensive training on financial management and accounting at its August site staff training and welcomes the opportunity to work with the Corporation on this matter. EJW does not agree with the amount of

questioned staff and member travel costs. It stated that it examined all travel and training expenses for the two years, and it appeared to EJW that some travel expenses were reported as training expenses.

In PY 2005-2006, EJW calculated \$280 of staff training and travel costs in excess of claimed staff travel costs. EJW also calculated \$275 of unsupported member travel and training costs.

- EJW stated that \$730 of Federal staff training expenses not claimed should be used to offset \$450 unsupported staff travel expense.
- EJW stated \$1,205 of excess Federal training expenses should be used to offset \$1,480 of unsupported Federal member travel expenses.

In PY 2006-2007, EJW calculated \$342 of staff training and travel costs in excess of claimed staff travel costs. EJW stated that \$825 of staff training expenses should be used to offset the \$483 of unsupported staff travel costs.

Accountants' Comments: We continue to make the recommendations described above for Public Counsel and EJW. We re-examined unsupported member and staff travel expenses based on EJW's response as follows:

- LAFLA's 2005-2006 budget did not include staff training costs and defined staff travel as local travel for law student volunteers. In addition, the \$730 of training costs could not be considered staff travel costs. The documentation provided by LAFLA indicated that these costs were for registration fees for the AmeriCorps Program Director at employment litigation and employment discrimination conferences.
- In PY 2005-2006, LAFLA claimed \$2,007 (\$1,505 Federal and \$502 match) of member training costs. LAFLA provided documentation supporting \$2,710 of member training costs; however, \$235 of the member training costs was for the conference registration of the AmeriCorps Program Director. Because staff training costs were not approved in the budget, these costs are unallowable. Of the \$2,495 for member training costs, \$735 was for per-diem expenses while attending training events. We subtracted these costs from member training match costs and added these expenses to unsupported Federal member travel costs. This change resulted in \$267 of unsupported member training match costs and decreased unsupported Federal member travel expenses to \$742.
- LAFLA's 2006-2007 budget defined staff travel as local travel for law student volunteers and defined member travel as out-of-town travel to training and conferences and local mileage for members. The \$825 of staff training costs does not qualify as staff travel costs. Documentation provided by LAFLA indicated that \$825 was for conference registration fees. However, \$910 of member training costs were for travel while attending training events. We subtracted these costs from member training match costs and added these expenses to unsupported member and staff travel. This change eliminated the unsupported Federal staff and member match travel costs and reduced unsupported member match to \$412.

8. EJW and its subgrantees did not ensure the allowability of claimed Federal and match grant costs.

Sampled EJW costs included the following:

- EJW claimed unallowable Federal share in PY 2005-2006 of \$5,437 and PY 2006-2007 of \$1,856. These costs are questioned because they are prior period costs, were not in compliance with OMB Circular A-122 *Cost Principles for Non-Profit Organizations*, or were not in compliance with AmeriCorps regulations. The questioned costs are summarized and described in the notes on Schedule A.
- In PY 2005-2006, EJW claimed match of \$2,896 of promotional supplies (retractable pens, flip calculators, Post-it Note, key lights). OMB Circular A-122, *Cost Principles for Non-Profit Organizations*, Attachment B. *Selected Items of Cost*, Paragraph 1. *Advertising and public relations costs*, states that the only allowable public relations costs are those specifically required by the Federal award. Further, unallowable advertising and public relations costs include costs of promotional items and memorabilia, including models, gifts, and souvenirs.
- In PY 2005-2006, EJW claimed as match a \$1,082 payment to the Mississippi Industries for the Blind. EJW purchased the AmeriCorps member gear in calendar year 2001, but did not pay off the balance until March 2006. 45 C.F.R. §2543, *Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*, Subpart C. 28., *Period of availability of funds*, states that, where a funding period is specified, a recipient may charge the grant only allowable costs resulting from obligations incurred during the funding period.
- In PY 2006-2007, EJW claimed match of \$1,036 for dinner costs at a Santa Monica, CA, restaurant for 19 people attending a staff training event. OMB Circular A-122, Attachment B. *Selected Items of Cost*, Paragraph 14. *Entertainment Costs*, states that costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.
- In PY 2006-2007, EJW claimed match of \$78 for transportation and parking expenses. The expenses were incurred in June 2006, but the PY 2006-2007 grant did not begin until August 2006. OMB Circular A-110, *Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*, Subpart C.28. *Period of availability of funds*, states that, where a funding period is specified, a recipient may charge to the grant only allowable costs resulting from obligations incurred during the funding period.
- EJW also claimed as match \$170 of late payment and finance fees. OMB Circular A-122, *Cost Principles for Non-Profit Organizations*, Attachment A.

General Principles, Paragraph B.23. *Interest*, states costs incurred on borrowed capital are unallowable.

Match-cost exceptions identified in the five preceding bullets resulted in overstated match costs claimed. EJW had, however, substantial overages in match requirements on the grants, and these offset the match exceptions identified. It appears that the match overages will enable EJW to meet its match requirement. As a result, we did not question overstated match costs here.

Sampled Public Counsel costs included the following:

- Public Counsel reported the cost of medical, dental, and vision insurance as member healthcare expenses on its PERs. In addition to these expenses, Public Counsel reported \$2,903 in PY 2005-2006 and \$6,549 in PY 2006-2007 of additional healthcare benefits it provided to members. Additional healthcare benefits included the cost of long-term disability insurance, life insurance, employee welfare benefits, professional liability insurance, and retirement benefits.

AmeriCorps Special Provisions (2005-2006), Section IV. 1.4. *Health Care Coverage*, states that grantees must provide a health care policy to members who are not otherwise covered. Further, the policy must include benefits such as physician services for illness or injury, hospital room and board, emergency room, x-ray and laboratory, and prescription drugs. Premiums for long-term disability insurance, life insurance, employee welfare benefits, professional liability insurance, and retirement benefits are not allowable.

- In PY 2005-2006 and PY 2006-2007, Public Counsel claimed \$600 and \$900, the full amount of state bar dues for two attorneys who spent a portion of their time supervising AmeriCorps members. OMB Circular A-122, *Cost Principles for Non-Profit Organizations*, Attachment A. *General Principles*, Paragraph B.1. *Direct costs*, states that direct costs are those that can be identified specifically with a particular final cost objective. When Public Counsel created the budget for the organization, it determined that the AmeriCorps program would pay the full amount of bar dues. Public Counsel considered it acceptable to charge the full amount of the bar dues to the AmeriCorps grant, stating that it incurred other expenses it could have, but did not, charge to the grant.
- In PY 2006-2007, Public Counsel claimed \$644 of airfare expenses for one of the attorneys who supervised AmeriCorps members to attend a conference in Buenos Aires, Argentina. AmeriCorps National Application Instructions (2005), Appendix E *Budget Instructions*, C.1 Staff Travel, allows only domestic travel.
- In PY 2005-2006 and PY 2006-2007, Public Counsel claimed \$1,346 and \$1,201 of staff travel expenses to attend conferences, recruit students for its summer program, and perform work on a case originally handled by a former AmeriCorps member, as follows:

PY 2005-2006	Amount
Directors of Litigation and Advocacy Conference	\$523
American Bar Association on Homelessness and Poverty	612
Law student recruiting trip	<u>211</u>
Total	<u>\$1,346</u>
PY 2006-2007	
Conference in Buenos Aires*	
National Consumer Law Center Conference	\$663
Trip to Sacramento to work on prior case	<u>538</u>
Total	<u>\$1,201</u>

* Refer to the preceding discussion of Buenos Aires travel.

Public Counsel considered the travel expenses allowable because they were related to the AmeriCorps program. OMB Circular A-122, Attachment A. *General Principles*, Paragraph B.1. *Direct costs*, states direct costs are those that can be identified specifically with a particular final cost objective. In addition, we noted during our review of the supporting documentation that several of the transactions were only supported by credit card statements and receipts. Further, some of the supporting documentation included travel costs in excess of Public Counsel's limits and included alcohol and international travel expenses.

Exceptions identified above resulted in overstated total member support and program operating costs on Public Counsel's FSRs. We did not, however, question Federal costs, because Public Counsel's accounting system commingled Federal share and match. Additionally, Public Council incurred excess costs and had substantial overages in match requirements. See Finding 7 for a description Public Council not segregating Federal and match costs in the accounting system.

Recommendations:

- 8a. The Corporation instruct EJW to review applicable regulations and develop policies and procedures to ensure claimed costs are allowable, adequately documented, and allocable in accordance with applicable cost principles and regulations.
- 8b. The Corporation should monitor EJW's claimed costs to ensure that policies and procedures are implemented.
- 8c. The Corporation disallow and recover the questioned costs and the related administrative costs.

EJW's Response: EJW welcomes the opportunity to work with the Corporation to ensure that all claimed costs are allowable and welcomes verification from the Corporation that its policies and procedures are in compliance. EJW did not agree with \$7,250 of the questioned costs in Schedule A or with questioned professional liability insurance costs at Public Counsel.

Accountants' Comments: We continue to make the recommendations described above. As discussed above, we questioned professional liability insurance costs for AmeriCorps attorneys, because EJW claimed these costs as health-care expenses.

9. EJW did not ensure that subgrantees complied with AmeriCorps requirements for eligibility, unemployment insurance, and living allowance payments.

EJW did not ensure subgrantee compliance with the following requirements:

Eligibility

- Documentation indicated that Public Counsel verified the eligibility of two PY 2005-2006 members after the members started service. The members started service in August 2006, and citizenship verification forms were not completed until September 2006. Public Counsel officials stated that they verified member citizenship before the start of service, but completed the paperwork after the members started service.
- The files for one PY 2005-2006 LAFLA member and one PY 2006-2007 LAFLA member were missing citizenship documentation. After this issue was identified during our testing, LAFLA provided the citizenship documentation for the two members.

According to 45 C.F.R. § 2522.200, *What are the eligibility requirements for an AmeriCorps participant?*, every AmeriCorps participant is required to be a citizen, national, or lawful permanent resident alien of the United States. AmeriCorps Special Provisions (2005-2006), Section C.1. *Member Enrollment Procedures*, states that an individual is enrolled as an AmeriCorps member when the program has verified member eligibility to serve.

Unemployment Insurance

As discussed in Schedule B, LAFLA claimed member unemployment insurance expenses of \$318 (\$133 Federal and \$185 match) in PY 2005-2006 and \$1,436 (\$750 Federal and \$686 match) in PY 2006-2007. In addition, Public Counsel claimed member unemployment insurance expenses of \$896 in PY 2005-2006 and \$1,365 in PY 2006-2007. Unemployment insurance expenses are unallowable in accordance with AmeriCorps Special Provisions (2005-2006), Section IV.I.2.d. *Unemployment Insurance*, which states:

The U.S. Department of Labor ruled on April 20, 1995 that Federal unemployment compensation law does not require coverage for members because no employer-employee relationship exists. The Grantee cannot charge the costs of unemployment insurance taxes to the Grant unless mandated by state law. Programs are responsible for determining the requirements of state law by consulting their State Commission, legal counsel or the applicable state agency.

Further, the California Office of the Governor, California Volunteers website states:

For most purposes, AmeriCorps members are considered to be participants in a national service program, not employees. For example, state law specifically states that AmeriCorps members are not eligible for unemployment benefits.

LAFLA officials said that they erroneously claimed unemployment insurance expenses and Public Counsel officials said that they were unaware that unemployment insurance expenses were unallowable.

Living Allowance Distribution

- LAFLA provided lump-sum living allowance payments of \$4,077 (\$1,890 of Federal costs and \$2,560 of match costs) to two PY 2005-2006 members and \$3,354 (\$1,561 of Federal costs and \$2,109 of match costs) to two PY 2006-2007 members upon the completion of their service. LAFLA officials stated that they considered the members entitled to the full amount of living allowance specified in the member contract even if the members completed their service requirements before the member contract end date.
- LAFLA calculated initial living allowance payments made to two PY 2005-2006 members and to three PY 2006-2007 members based on number of hours served by the members. LAFLA officials stated that it was their understanding that if the members did not serve the full term, they were not entitled to the full amount of the living allowance. The members served their full terms and eventually received the full amounts of the living allowance specified in the member contract.
- Public Counsel provided \$1,974 of advance living allowance payments to two PY 2006-2007 members. The members started on August 28, 2006, but were paid their first living allowance payment on August 15, 2006. Public Counsel officials were unaware that they were not permitted to provide advance payments to the members.

AmeriCorps Special Provisions (2005-2006), Section IV. I.1. *Living Allowance Distribution*, states that programs should pay living allowance in regular increments, such as weekly or bi-weekly, paying an increased increment only for increased living expenses, such as food, housing, or transportation, and that the program is not permitted to provide a “lump sum” payment of the remaining living allowance upon a member’s early completion of a term of service, nor provide “make-up” payments if the member enrolls after the program start date.

Recommendations:

- 9a. The Corporation require EJW to strengthen its subgrantee training and monitoring to ensure that subgrantees comply with eligibility, member unemployment insurance, and living allowance AmeriCorps requirements.
- 9b. The Corporation should verify implementation of the training and monitoring.
- 9c. The Corporation disallow and recover the questioned costs and the related administrative costs.

EJW’s Response: EJW welcomes the opportunity to work with the Corporation to strengthen its training and monitoring of subgrantees. EJW does not agree with \$1,890 of questioned PY 2005-2006 lump-sum living allowance payments. EJW stated that LAFLA entered into oral commitments with two members prior to the September 6, 2005, effective date of the Provisions. EJW and Public Counsel do not agree that its two PY 2006-2007

members were provided advance living allowance payments and stated that the members did not receive more than 24 equal payments that totaled their full award amounts.

Accountants' Comments: We continue to make the recommendations described above. Member contracts for the two PY 2005-2006 LAFLA members were signed on September 21, 2005, and September 22, 2005, respectively. The two PY 2006-2007 Public Counsel members completed their service in less than 12 months and thus were not eligible to receive all 24 living allowance payments.

- 10. EJW did not have written procedures to perform subgrantee site visits or desk reviews within a specific period and did not have procedures to obtain subgrantee audit management letters or perform necessary reconciliations.**

Subgrantee Monitoring Visits

EJW did not have written monitoring procedures for performing site visits and desk reviews within a specific period. EJW representatives stated they attempt to visit or audit as many sites as possible during each three year grant cycle. EJW did not perform site visits or conduct desk reviews of three PY 2005-2006 subgrantees and one PY 2006-2007 subgrantee. EJW representatives stated that they did not perform site visits or conduct desk reviews because the four subgrantees were leaving the program.

According to 45 C.F.R. §2541.400(a), *Monitoring by grantees*, grantees are responsible for managing the day-to-day operations of grant- and subgrant- supported activities to ensure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function, or activity.

Subgrantee A-133 Reports and Management Letters

EJW did not have procedures in place to obtain management letters from the subgrantees or perform reconciliations of subgrantee payments to the Schedule of Expenditures on Federal Awards. OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*, Subpart D. 400(d) *Pass-through Entity Responsibilities*, requires grantees to ensure that subrecipients undergo audits meeting requirements of the circular. According to 45 C.F.R. § 2541.260, *Non-Federal Audit*, subsection (b)(4), recipients must consider whether subrecipient audits necessitate adjustment of the grantee's own records. EJW officials said they did not require subgrantees to submit management letters and reviewed report expenditures as subgrantee audit reports were received.

Recommendations

- 10a. The Corporation require EJW to write monitoring policies, strengthen its monitoring tool for the issues identified in this report, and perform the monitoring in accordance with its policies.
- 10b. The Corporation require EJW to strengthen its subgrantee program monitoring procedures to ensure that all OMB Circular A-133 management letters are obtained, necessary reconciliations are performed, and results of these procedures are documented.
- 10c. The Corporation ensure that EJW's strengthened monitoring program is implemented.

10d. The Corporation increase its onsite monitoring of EJW programs to ensure that issues in this report are corrected.

EJW's Response: EJW welcomes monitoring by the Corporation to ensure compliance, but does not agree that its monitoring processes and tools need strengthening or that subgrantee management letters should be obtained.

Accountants' Comments: We continue to make the recommendations described above.

APPENDIX A

**EQUAL JUSTICE WORK'S
RESPONSE TO AGREED-UPON PROCEDURES REPORT**

June 3, 2008

Richard Samson
Audit Manager
Office of the Inspector General
Corporation for National and Community Service
1201 New York Avenue NW, Suite 830
Washington, DC 20525

Dear Mr. Samson:

Pursuant to your email on May 20, 2008, Equal Justice Works presents the following information in response to the draft version of the Office of Inspector General's audit report. These comments are submitted on behalf of Equal Justice Works and the project subgrantees.

Equal Justice Works is concerned about the results and recommendations of the report, many of which we believe are not supported by the facts or the laws. While we do not claim to be perfect, and we acknowledge instances where our performance could be better, the findings do not warrant the return of Corporation for National and Community Service (Corporation) funds. The draft report submitted by Cotton & Co. to the Office of the Inspector General (IG) does not, and could not, claim that the services promised in our grant proposals to the Corporation were not delivered. In some of the items questioned by the report as unallowable expenditures, we were, in fact, seeking to save government funds.

We have worked in close cooperation with the Corporation for more than twelve years to implement successful programs and to monitor compliance with Federal regulations. We will continue to work with the Corporation to maintain the quality of the program and to enhance systems of management and accountability as deemed necessary.

We are very proud of our program's results. Equal Justice Works manages a full time AmeriCorps Program and an education award only program for law students to provide critically-needed legal services in communities around the country. During the period covered by this audit:

- 66 AmeriCorps Legal Fellows recruited 6,245 law student and lawyer volunteers. Together they provided essential legal services to 45,325 people.
- 657 Summer Corps members provided 225,566 hours of legal services, benefiting 33,016 people. 633 Summer Corps members successfully completed terms and received \$1,000 AmeriCorps education awards.

Equal Justice Works has some of the highest program standards in the national service field:

- In our fifth year of this grant, we require sites to achieve a 50% match. Equal Justice Works and its subgrantees matched at 48% in the first three years of the grant, and are budgeted to match at 53% in 2007-2008.
- We maintain some of the highest enrollment and completion rates in the country. Including Summer Corps, 382 of 385 member slots were filled in 2006-2007 (99% recruitment) and 365 members successfully completed terms (96% retention).

We have done our best and continue to work diligently to administer our programs with the utmost rigor and professionalism. We are confident that our AmeriCorps programs achieve the highest possible impact for the fewest taxpayer dollars.

Below we have set forth our responses to the draft report. The first part of each section is the result taken from the report. This is followed by our response and basis for our response for each item raised in the report. All references to AmeriCorps Provisions are for the 2006 Provisions unless otherwise stated.

Part 1: Specific Comments on Questioned Costs (Schedule A):

1. Result: EJW claimed \$2,531 of prior-period expenses as detailed below:

Description	Amount
Mississippi Industries For the Blind, Clothing for PY 2004-2005 members	\$2,262
Dell Server purchased during PY 2004-2005	<u>269</u>
Total	<u>\$2,531</u>

45 C.F.R. §2543, *Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*, Subpart C. 28., *Period of availability of funds*, states that, where a funding period is specified, a recipient may charge the grant only allowable costs resulting from obligations incurred during the funding period. EJW officials considered the AmeriCorps funding to be continuation funding and not funding required to be spent during a specific funding period. We questioned the \$2,531.

Response:

These costs are allowable. Equal Justice Works incurred the above costs during the funding period, and in the case of the charge for Mississippi Industries for the Blind (MIB), we received specific permission from our Corporation Grants Officer to bill it exactly as we did. Equal Justice Works challenges these questioned costs.

Basis:

Item: Mississippi Industries for the Blind, Clothing for PY 2004-2005 members
Amount: \$2,262

In 2006, Equal Justice Works received a bill from MIB for an order placed in during the 2004-2005 grant year. In a phone conversation, Equal Justice Works Comptroller Amin Kakeh requested and received permission from our Corporation for National and Community Service Grants Officer to bill these costs to the 2005-2006 grant.

Item: Dell Server
Amount: \$269

AmeriCorps Provision Section IV O describes grant periods and interval funding:

For the purpose of the grant, a project period is the complete length of time the grantee is proposed to be funded to complete approved activities under the grant. A project period may contain one or more budget periods. A budget period is a specific interval of time for which Federal funds are being provided to fund a grantee's approved activities and budget.

Unless otherwise specified, the grant covers a three-year project period. In approving a multi-year project period, the Corporation generally makes an initial award for the first year of operation. Additional funding is contingent upon satisfactory performance and the availability of funds. The project period and the budget period are noted on the award document.

The project period and funding period delineated in the CNCS award letter for grant # 03NDHDC001 is 8/13/2003-3/21/2007. Equal Justice Works incurred and expended the above costs during the same funding period.

2. Result: EJW claimed \$2,700 (\$1,900 in PY 2005-2006 and \$800 in PY 2006-2007) of unsupported conference registration fees. It provided documentation to support payment of the expense, but did not provide documentation to indicate the registration fee amount. OMB Circular A-122, Attachment A. *General Principals*, Paragraph A.2. *Factors affecting allowability of costs*, states that an award cost must be adequately documented to be allowable. We questioned \$2,700.

Response:

These costs are allowable. The American Bar Association has provided documentation of conference costs that meets OMB requirements (Attachment 1). Equal Justice Works challenges the questioned cost.

Basis:

As part of member training, Equal Justice Works sends all AmeriCorps Fellows to the annual Equal Justice Conference presented by the American Bar Association (ABA) and the National Legal Aid and Defender Association (NLADA). In 2006, Equal Justice Works negotiated a \$100 registration rate with the ABA for 19 AmeriCorps Fellows. In 2007, Equal Justice Works sent two staff members to the training at the full rate (\$400).

3. Result: EJW claimed \$1,243 (\$1,006 in PY 2005-2006 and \$237 in PY 2006-2007) of meal expenses as detailed below.

PY	Description	Amount
2005-2006	Grillfish (Communications Lunch)	\$43
2005-2006	M Bable (Program Director Lunch)	509
2005-2006	Cap City (AmeriCorps Attorney Lunch)	454
2006-2007	Broadway Grill (Dinner)	80
2006-2007	AmeriCorps Attorney and Staff (Dinner)	<u>157</u>
Total		<u>\$1,243</u>

The documentation provided by EJW indicated that the claimed costs were for a lunch involving its Communications Director and the EJW AmeriCorps Program Director; meals for the EJW AmeriCorps Program Director and an AmeriCorps member during a site visit; and meals for AmeriCorps members and subgrantee program directors during training events. However, we could not determine the allowability of the expenses because the costs were supported by non-itemized credit card receipts. Without itemized receipts, we could not determine compliance with OMB Circular A-122 Appendix B *Selected Items of Costs*, Paragraph 3. *Alcoholic beverages*. Adequate documentation is required by OMB Circular A-122 *Cost Principles for Non-Profit Organizations*, Attachment A. *General Principals*, Paragraph A.2. *Factors affecting allowability of costs*. Additionally, no documentation was provided to demonstrate the site visit meals are necessary for the performance of the award or the costs were not unallowable entertainment cost in accordance with OMB Circular A-122, Appendix B *Selected Items of Costs*, Paragraph 14, *Entertainment Costs*. We questioned \$1,243.

Response:

Nearly all of these costs are allowable. Four of the five meals involved meetings during trainings or site visits. Equal Justice Works challenges \$1,200 of the questioned costs.

Basis:

The AmeriCorps website, under AmeriCorps Policies and Policy FAQs, FAQ Number 990111 states,

“Meals for staff while they are on travel is an allowable cost. (Emphasis added.) Otherwise meals are not generally an allowable cost. Generally, under OMB Cost Principles at 2 CFR 215 and 225 (formerly Circulars A-87 and A-110), the grantee cannot charge meals for staff working late or lunch for staff working through normal lunch period. One recognized exception in the Cost Principles is for staff attending a conference or training activity that includes meals during a working session/activity.”

Here is a description of these events and meals:

8/11/2005: During the Project Director’s Training at the Doubletree Washington, eleven site staff and two Equal Justice Works staff received box lunches. The Doubletree does not provide itemized receipts for in-house catered events. No alcohol was purchased.

3/21/2007: During the 2007 Equal Justice Conference in Denver, Senior Program Manager Cole McMahon met with five AmeriCorps Fellows and staff over dinner to prepare the next day’s training sessions. An itemized receipt was not made available. Alcohol was not billed to the grant.

6/7/2007: While conducting a site visit with Montana Legal Services Association, Senior Program Manager Cole McMahon and two AmeriCorps Fellows met over dinner to discuss work plans and supervision at the On Broadway restaurant in Helena. An itemized receipt was not made available. No alcohol was purchased.

6/13/2006: Three Equal Justice Works staff met to discuss marketing and resource development for the AmeriCorps program. While this cost was directly related to AmeriCorps business, Equal Justice Works does not challenge this cost.

10/20/06: During the Fall Leadership Development Training, 28 AmeriCorps Fellows attended a group lunch at Capital City Brewing Company. An itemized receipt was not made available. No alcohol was purchased.

4. Result: EJW claimed \$819 of gifts provided to members and trainers as detailed below:

Description	Amount
Gifts cards for trainers	\$150
Magazine subscriptions for members-member recognition	443
Magazine subscriptions for members-member recognition	149
Gifts for trainers	56
Lunch and gift for trainer	<u>21</u>
Total	<u>\$819</u>

OMB Circular A-122, Attachment B. *Selected Items of Cost*, Paragraph 14, *Entertainment Costs*, states that entertainment costs, including amusement, diversion, and social activities and any costs directly associated with such costs (tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities), are unallowable. We questioned \$819.

Response:

These costs are allowable. The items listed in this finding not entertainment-related and, in fact, saved federal funds. Equal Justice Works challenges these questioned costs.

Basis:

As part of our ongoing efforts to reduce costs, Equal Justice Works developed these low-cost alternatives:

- In lieu of the \$540 daily rate for trainers and consultants, Equal Justice Works provides \$25 gift certificates.
- In lieu of allowable recognition items, such as plaques and paperweights, which can cost up to \$90 per item, Equal Justice Works provides lower-cost magazine subscriptions. Costs for the discounted subscriptions as recognition items average \$20 per AmeriCorps Fellow.

5. Result: EJW did not provide an end-of-term evaluation form for one member who served a second term in PY 2005-2006 and four members who served second terms in PY 2006-2007. AmeriCorps Special Provisions 2005-2006, Section IV. D.6. Performance Reviews, requires mid-term and end-of-year member performance evaluations. According to 45 C.F.R. §2522.220(c), Eligibility for Second Term, a participant is not eligible for a second or additional term of service and/or for an AmeriCorps education award without a satisfactory performance evaluation. We questioned one member's education award of \$1,000 in PY 2005-2006 and the four members' education awards of \$4,000 in PY 2006-2007.

Response:

Equal Justice Works has documented that all tested members successfully completed terms as per AmeriCorps regulations. While we were unable to produce the written evaluations for all of the members in question, the supervisors attest that evaluations were conducted. Under the circumstances, it would be unfair to demand the return the education awards. Equal Justice Works challenges the questioned education awards.

Basis:

AmeriCorps Provisions IV. D. 6. states an evaluation “should focus on such factors as:

- a. Whether the member has completed the required number of hours
- b. Whether the member has satisfactorily completed assignments; and
- c. Whether the member has met other performance criteria that were clearly communicated at the beginning of the term of service.”

Equal Justice Works provided the following documentation for the members in question:

- 1) Final timesheets with supervisor’s certification of hours.
- 2) Final member reports outlining agreed-upon activities that were accomplished during term.
- 3) WBRS exit forms demonstrating the successful completion of the term of service.

In the member agreement, Summer Corps host sites certify that they will conduct evaluations. Equal Justice Works did not collect 633 evaluations for the members who served nationwide during the grant years in question. That the members in question were accepted for a second term is evidence of their success in the first term. Equal Justice Works produced an evaluation from Community Legal Services of Philadelphia for _____, whose education award was nonetheless questioned. Though four host organizations were unable to produce the written evaluations for law students who served two, and in one case, three years ago, Equal Justice Works accepts their formal certification that the evaluations took place.

In our judgment, the members in question successfully completed their first AmeriCorps terms and received favorable evaluations, and were therefore eligible for a second term, which they also completed successfully. The absence of a separate evaluation form is a technicality that does not justify the return of an education award when these AmeriCorps members completed two terms successfully and fulfilled all of their requirements for their awards.

6. Result: Six members started service before signing member contracts (three members in PY 2005-2006 and three members in PY 2006-2007). AmeriCorps Special Provisions (2005-2006) Section IV. C.1. *Member Enrollment Procedures*, states that an individual is enrolled as an AmeriCorps member when he or she signs a member

contract. EJW officials said they were unaware of the requirement for members to sign contracts before starting service.

We questioned education awards of \$2,000 for the two members who did not meet minimum service hours required for their education awards when we subtracted the service hours performed before member contracts were signed, as detailed below:

Member	WBRS Hours	Timesheet Hours	Hours Before Signed Contract	Eligible Service Hours	Service Hours Required	Questioned Education Award
1	360	360	144	216	300	\$1,000
2	317	317	168	149	300	\$1,000

Response:

Equal Justice Works has documented that all tested members successfully completed terms as per AmeriCorps regulations. Equal Justice Works is in substantial compliance with the AmeriCorps provisions on member enrollments. Equal Justice Works challenges the questioned education awards.

Basis:

As described below in Compliance Result #1, the AmeriCorps Provision under section IV. C. 1., "Member Enrollment," is vague and contradictory, and has been revised in the 2008 version of the provisions to clarify this very issue. Equal Justice Works certifies that _____ and _____ successfully completed terms of service, and should receive full education awards.

Part 2: Specific Comments on Compliance Results and Recommendations (Exhibit B):

1. Result: Some member contracts were not signed before applicants started service, and one member continued to serve past the contract end date.

Response:

In the report, Cotton & Co. disallows all hours served prior to a member contract being signed, but the relevant AmeriCorps provision is clear that the hours count when a member contract is signed or the member enters into a legally enforceable commitment as determined by state law. In the exit interview, we made this point and the auditors refused to acknowledge the second clause of the provision. Equal Justice Works has documented that all tested members successfully completed terms. Equal Justice Works challenges the questioned education awards.

Basis:

This result relates to the Legal Aid Foundation of Los Angeles and Public Counsel. Responses are specific to each organization.

Legal Aid Foundation of Los Angeles responds to this result as follows:

“LAFLA enrolled all members in compliance with this provision.

Section IV. C. of the AmeriCorps grant provisions addresses the requirements for member enrollment. Subsection 1. b. requires that, prior to enrolling a member in AmeriCorps, the program make commitments to the individuals to serve. Commitment is defined as signing a member contract or “otherwise entering into a legally enforceable commitment as determined by state law.” (Emphasis added)

Section 1622 of the California Civil Code states: “All contracts may be oral, except such as are required by statute to be in writing.” The following sections of the code, generally known as the Statute of Frauds, lay out those contracts that are required to be in writing. None of the exceptions to Section 1622 apply in this situation.

The fact that a subsequent document, the member contract, is required to be in writing pursuant to the grant provisions does not limit the effect of Section 1622 or interfere with the effectiveness of the oral agreement. “The rule is well established and uniformly followed that when the respective parties orally agree upon all the terms and conditions of a contract with the mutual intention that it shall thereupon become binding, the mere fact that a formal written agreement to the same effect is to be thereafter prepared and signed does not alter the binding validity of the original contract.” Thompson v. Schurman, 65 Cal. App. 2d 432 (1944) (citations omitted).

As there was a binding contractual commitment prior to the commencement of services, as defined in subsection b., and there is no requirement in the law that the signed contract predate the commencement, all participants at LAFLA did complete the required 1700 hours, and the education awards should be allowed.”

Public Counsel responds to this result as follows:

“Public Counsel is aware that in PY 2006-2007, _____ signed her contract one day after starting. However, this was _____ 2nd year of service and the one-day delay in signing was just an oversight.

The report questions the education award provided to _____. This is apparently based on 14 hours being served after the end of the contract and an additional arithmetic error of 1.75 hours. Public Counsel is aware that in PY 2006-2007, _____ continued to work past his contract end date of August 2, 2007. However, _____ was unable to start on August 2,

2006 due to personal reasons. His contract did not get amended but his actual service hours began on August 28, 2008.

Moreover, as noted in the May 20, 2008 Draft Audit Report, Public Counsel provided a sworn declaration (Attachment 2) from the AmeriCorps Member attesting that he did not include in his timesheets 17 additional hours spent by the Member traveling to and from a required, out-of-town AmeriCorps training. Once these additional hours are added, the Member had more than sufficient hours to earn the education award. Accordingly, Equal Justice Works and Public Counsel dispute the questioning of this education award. “

Responses to Recommendations:

1a. Equal Justice Works welcomes the opportunity to work with the Corporation to improve these systems.

1b. Equal Justice Works welcomes the opportunity to work with the Corporation to improve these systems.

1c. Equal Justice Works certifies that all members listed in the report successfully completed full AmeriCorps terms. Equal Justice Works challenges the recovery of education awards for these members.

1d. Equal Justice Works certifies that all members listed in the report successfully completed full AmeriCorps terms. Equal Justice Works challenges the recovery of interest payments for these members.

2. Result: Some member position descriptions included activities that are inconsistent with the regulations and grant terms.

Response:

The report does not charge any member with engaging in prohibited activities. In this instance, the auditors are concerned about generic job descriptions for summer internships and ignores the sworn certifications in the same documents and the final reports submitted by the members that they did not engage in any prohibited activity. Equal Justice Works challenges this result.

Basis:

The four instances cited in the report refer to Summer Corps position descriptions. In each case, the language in question is a description of what the organization does, and generic explanations of functions interns may perform. The audit highlights language in these generic internship descriptions that state that the organization's work involves political advocacy, but the descriptions do not state that the member will engage in those activities.

In each cited case, the Summer Corps member signed the contract which includes an agreement **not** to perform activities prohibited in CNCS regulations, 45 CFR 2520.30. These members also signed post-service Certification of Nonparticipation in Prohibited activities forms. End of term accomplishment reports also verify that these members engaged in acceptable service activities under the grant and regulations.

Equal Justice Works has long-established strict, extensive and redundant procedures to ensure that no members engage in activities that are inconsistent with regulations and grant terms. Equal Justice Works outlines AmeriCorps Prohibited Activities at several junctures throughout the recruitment, application, orientation, enrollment and exit processes:

- Recruitment materials state that applicants' projects must not involve any AmeriCorps Prohibited Activities;
- Applicants certify with the submission of their application that their project will not involve any AmeriCorps Prohibited Activities;
- Applications that contain the potential for participation in any AmeriCorps Prohibited Activities are followed up on with the applicant and supervisor;
- Offers of placement in the program state that their acceptance in the program is contingent upon their nonparticipation in AmeriCorps Prohibited Activities;
- Both member and host site supervisor orientation guides outline the AmeriCorps Prohibited Activities;
- The Service Contract, completed and signed by both the member and the supervisor prohibits participation in AmeriCorps Prohibited Activities; and
- The Exit Form includes a Certification of Nonparticipation in AmeriCorps Prohibited Activities.

Response to Recommendations:

2a. Equal Justice Works scrupulously follows AmeriCorps regulations regarding prohibited activities, and carefully reviews all contracts to ensure the member activities meet the purpose of the grant.

2b. Equal Justice Works challenges the result that states our training and monitoring policies are insufficient.

3. Result: EJW did not have documentation to demonstrate that some member evaluations were conducted.

Response:

Equal Justice Works certifies that all five Summer Corps cited in the report successfully completed full terms of AmeriCorps service, and challenges the questioned education awards. LAFLA conducted an end of term evaluation for the member in question. Equal Justice Works and LAFLA challenge this questioned education award and associated costs.

Please refer to the response to Result 5 in Part 1.

Legal Aid Foundation of Los Angeles responds to this result as follows:

“The Report identifies _____ as the member who did not receive a final evaluation at the conclusion of his first term. Such an evaluation was conducted in August, 2005, at the conclusion of _____’s first term. Due to the press of business, a written documentation of the evaluation was not prepared until December, 2005. A copy of the written evaluation is attached (Attachment 3). In addition, payroll records reflect that _____ did complete the required number of hours in his first term. Had he not done so, he would not have been allowed to enroll for a second year.

_____’s end-of-term evaluation complies with the requirements of the grant provisions, and the questioned costs and education award should be allowed.”

Responses to Recommendations:

3a. Equal Justice Works has strengthened policies and procedures regarding completion of midterm and final evaluations. We welcome the opportunity to work with the Corporation to strengthen our training and monitoring procedures.

3b. In May of 2008, Equal Justice Works notified potential Summer Corps members and supervisors that final member evaluations must be submitted to Equal Justice Works in order to successfully complete the program and receive an education award. We welcome the opportunity to demonstrate these efforts to the Corporation.

3c. Equal Justice Works and LAFLA certify that the specific member listed in the report received evaluations in compliance with AmeriCorps provisions, and successfully completed a full AmeriCorps term. Equal Justice Works challenges the recovery of living allowance and related administrative costs for this member.

3d. Equal Justice Works certifies that all members listed in the report received evaluations, and successfully completed full AmeriCorps terms. Equal Justice Works challenges the recovery of education awards for these members.

3e. Equal Justice Works certifies that all members listed in the report received evaluations, and successfully completed full AmeriCorps terms. Equal Justice Works challenges the recovery of accrued interest awards for these members.

4. Result: EJW and the subgrantees tested had weaknesses in member timekeeping procedures.

Response:

Equal Justice Works, LAFLA and Public Counsel acknowledge instances in which individual timesheets have incorrect placement of initials, use of whiteout and pencil, or faxed copies. While we agree that we can improve upon our current practices, these are not material deficiencies. For the period under consideration for the audit, Equal Justice Works staff has collected timesheets from 657 Summer Corps members and entered hours into the AmeriCorps Web Based Reporting System (WBRS). As WBRS is taken off-line by the Corporation for National and Community Service this year, Equal Justice Works (and all AmeriCorps programs) will be required to utilize the electronic timekeeping function of the replacement system. This will eliminate all of the issues raised in the report.

Responses to Recommendations:

- 4a. Equal Justice Works welcomes the opportunity to work with the Corporation to implement new timekeeping procedures.
- 4b. Equal Justice Works welcomes the opportunity to work with the Corporation on training subgrantees on new AmeriCorps timekeeping systems.
- 4c. Equal Justice Works welcomes verification from the Corporation of the above recommendations.
5. Result: EJW did not always complete member enrollment and exit forms and enter them into the Corporation's WBRS in accordance with AmeriCorps requirements.

Response:

Equal Justice Works acknowledges instances in which enrollments and exits have been entered into WBRS beyond 30 days. The results of our efforts to address this issue are clear in Cotton & Co.'s member testing. For our 2005-2006 Katrina and Summer Corps members, late enrollment and exits occurred 49 times. In 2006-2007, the number was down to four. We will continue to make this a priority.

Responses to Recommendations:

5a. Equal Justice Works welcomes the opportunity to work with the Corporation to continue to improve our timely completion of enrollment and exits.

5b. Equal Justice Works welcomes verification from the Corporation of the above recommendation.

6. Result: EJW and its subgrantees did not always conduct orientation training or document member attendance at orientation.

Response:

Equal Justice Works and our subgrantees conduct orientations in compliance with AmeriCorps Provisions. Equal Justice Works challenges this result.

Basis:

AmeriCorps Special Provisions, Section IV. D.3. *Training, Supervision, and Support*, states that grantees must conduct an orientation for members. The Provisions do not dictate a timeframe within which the orientation must be conducted.

The report states that 15 Summer Corps members and two AmeriCorps Legal Fellows did not receive an orientation. Section IV. D. 3 of the AmeriCorps Provisions requires grantees to conduct a “pre-service” orientation for all program members. The provisions do not define a timeframe in which the orientation should take place. During the exit conference, representatives from Cotton & Co. and the Inspector General’s Office suggested that an orientation should take place on the first day, but a National Direct grantee obviously cannot provide an orientation for 35 fulltime and 350 minimum time members on their first day of enrollment.

In addition to on-site orientation at the subgrantee level, Equal Justice Works provides orientation calls to new AmeriCorps Fellows and conducts an annual Leadership Development Training each October to orient AmeriCorps Fellows to their service roles and to enhance the skills needed to perform their service.

Equal Justice Works maintains that documentation of orientation is available for both Summer Corps members and AmeriCorps Fellows as follows:

- Email records for Summer Corps members who receive an Orientation Guide prior to their enrollment.
- Travel receipts for AmeriCorps Fellows from around the country to attend the annual Leadership Development Training.

Legal Aid Foundation of Los Angeles responds to this result as follows:

“Section IV D. 3. of the AmeriCorps grant provisions addresses the requirements for orientation. This section requires the grantee to conduct an orientation for members. The orientation is designed to enhance the member security and sensitivity to the community. The provision spells out a number of specific topics to be covered in the orientation.

_____, the AmeriCorps participant identified in this matter, received orientation that meets all of the requirements of this section at the beginning of his first year of service. By the beginning of his second year, he was well familiar with the community he was serving, and had received training in all of the specific topics required by subsection D.3.

In addition, _____ did attend an orientation provided by Equal Justice Works in Washington D.C. on October 27 through 30, 2005. Thus the orientation requirement was met, and this item should be removed from the report.”

Responses to recommendations:

- 6a. Equal Justice Works challenges the result that orientations are not conducted or documented in keeping with AmeriCorps provisions.
- 6b. Equal Justice Works welcomes verification from the Corporation of our compliance.
- 7. Result: EJW and subgrantee financial management systems did not adequately account for and report grant costs in accordance with Federal requirements.

Response:

Equal Justice Works and our subgrantees admit that Financial Status Reports were submitted late during the 2005-6 grant year. Equal Justice Works challenges some elements of the result, including all but \$275 of the questioned costs.

Basis:

During the 2005-2006 grant year, Equal Justice Works, Public Counsel and LAFLA submitted Financial Status Reports to CNCS after deadlines. During that grant year, both the Equal Justice Works Comptroller and Program Manager positions were unfilled for a number of months. During the 2006-2007 grant year, Equal Justice Works revised our processes, trained all finance staff on AmeriCorps fiscal management and addressed these delays. All Equal Justice Works FSRs for the 2006-2007 grant year were submitted within 45 days of the end of the grant period as is required by the CNCS Office of Grants Management. During 2006-2007, on-time submissions by tested subgrantees increased by 80%.

Public Counsel responds to this result as follows:

“Public Counsel is aware that in PY 2005-2006 and 2006-2007, we used 1/12th of budgeted amount instead of actual expenditures on our Periodic Expense Reports (PER). After a desk audit was performed by Equal Justice Works in April 2007, we changed our procedure to reflect actual expenditures.

Public Counsel is aware that some of the member health care, member training and staff training were not supported but points out that we had substantial overages in our match requirements. This was addressed when we changed our procedure to reflect actual expenditures.

Public Counsel is aware that some of our Financial Status Reports (FSR) were late or never submitted. This was due to a misunderstanding with Equal Justice Works on how to close one grant year and still report for that same quarter on the new grant year. This has been clarified through Equal Justice Work’s practice of emailing subgrantees as to when and for what period an FSR is due.”

Legal Aid Foundation of Los Angeles responds to this result as follows:

“The report found that LAFLA overstated its staff and member travel for each of the examined years. The findings are reflected in the following table:

PY 2005-2006	Claimed	Supported	Unsupported
Personnel Costs-Match	\$16,094	\$14,145	\$1,949
Benefits-Match	4,024	3,536	488
Staff Travel-Federal	450		450
Member Travel Match	602		602
Member Travel-Federal	<u>3,672</u>	<u>2,195</u>	<u>1,477</u>
Totals	<u>\$24,842</u>	<u>\$19,876</u>	<u>\$4,966</u>
PY 2006-2007			
Staff Travel-Federal	\$483		\$483
Staff Travel-Match	802		802
Member Travel-Match	<u>1,312</u>	<u>\$1,275</u>	<u>37</u>
Totals	<u>\$2,597</u>	<u>\$1,275</u>	<u>\$1,322</u>

According to 45 C.F.R. § 2543021, *Standards for financial management systems*, subsection (b), recipient financial management systems must provide for accurate, current, and complete disclosure of financial results of each Federally-sponsored program.

As the Report challenges only the Federal share of these expenses, this response will focus on those items. As noted in the report, LAFLA had an excess of match more than sufficient to offset these items.

We have carefully reviewed the documentation for all travel and training expenses for the two affected years. It appears that some travel expenses were reported as training expenses. If the two categories are examined together, it shows the following:

PY 2005-2006	Per Report	Actual	Difference
Staff Travel – Federal	450	0	(450)
Staff Training - Federal	0	730	730
Total Staff T & T	450	730	280
Member Travel – Federal	3675	2195	(1480)
Member Training – Federal	1505	2710	1205
Total Member T & T	5180	4905	(275)
PY 2006-2007			
Staff Travel – Federal	483	0	(483)
Staff Training - Federal	0	825	825
Total Staff T & T	483	825	342

As this chart demonstrates, with the exception of \$275, the combination of training and travel exceeds the reported amount in each year and category. Foundation records support all of these figures. It would appear that in the analysis and in the FSR reports, some figures were mislabeled as training instead of travel. Full documentation of these figures is available on request. Equal Justice Works and LAFLA challenge \$2,135 of the questioned costs for this result (\$2,410).”

Responses to recommendations:

7a. Equal Justice Works and its subgrantees welcome verification from the Corporation that FSRs are submitted on time.

7b. Equal Justice Works will provide extensive training on financial management and accounting at our August site staff training, and we welcome the opportunity to work with the Corporation on this matter.

7c. The only questioned costs in this result are assigned to LAFLA for unsupported amounts of \$1,927 in PY 2005-2006 and \$483 in PY 2006-2007. Equal Justice Works and LAFLA challenge \$2,135 of the questioned costs for this result.

8. Result: EJW and its subgrantees did not ensure the allowability of claimed Federal and match grant costs.

Response:

Equal Justice Works manages the grant in compliance with OMB regulations. Of the questioned costs, Equal Justice Works maintains that \$7,250 is allowable.

Basis:

The report cites unallowable expenses billed to the Federal share of \$5,437 in PY 2005-2006 and \$1,856 in PY 2006-2007. As outlined in response to Questioned Costs 1-4 in the report, Equal Justice Works challenges all but \$43 of these questioned costs, totaling \$7,240.

With regard to the findings related to match costs such as promotional items, member uniforms, transportation and finance fees, Equal Justice Works can provide justification for specific items if necessary. Because Equal Justice Works has substantial overages in its match, these costs are not questioned.

Public Counsel responds to this result as follows:

“Public Counsel is aware that in PY 2005-2006 and 2006-2007, we reported various costs in our match that have been disallowed. However, since Public Counsel had substantial overages in our match requirement, these were not questioned.

Public Counsel and Equal Justice Works disagree that professional liability insurance is not an allowable expense for the grant. AmeriCorps Legal Fellows are different than other AmeriCorps members; they are attorneys and all attorneys can have a malpractice claim filed against them. Public Counsel must cover each attorney with the necessary professional liability insurance and feels that it is absolutely the type of expense that should be allowable under this grant. Moreover, AmeriCorps Provisions Section IV, I, 2A: Taxes and Insurance, states: “The grantee is responsible for ensuring adequate general liability coverage for the organization, employees and members, including coverage of members engaged in on- and off-site project activities.”

In regard to the findings related to the state bar dues, conference costs, and overseas airfare claimed in the match, Public Counsel acknowledges the recommendations. Again, because Public Counsel had substantial overages in match requirements, these costs were not questioned.”

Responses to recommendations:

8a. Equal Justice Works welcomes the opportunity to work with the Corporation to ensure all claimed costs are allowable.

8b. Equal Justice Works welcomes verification from the Corporation that our policies and procedures are in compliance.

8c. Equal Justice Works challenges \$7,250 in questioned costs.

9. Result: EJW did not ensure that subgrantees complied with AmeriCorps requirements for eligibility, unemployment insurance, and living allowance payments.

Response:

Equal Justice Works accepts some elements of this result and challenges others.

Basis:

Equal Justice Works, LAFLA and Public Counsel accept the result that California law does not support the payment of unemployment insurance for AmeriCorps members. Responses to eligibility and living allowance disbursement are specific to LAFLA and Public Counsel:

Legal Aid Foundation of Los Angeles responds to this result as follows:

“LAFLA has changed its procedures to ensure that all necessary eligibility documentation is obtained for all grants. This problem should not recur.

The report finds LAFLA in violation of the AmeriCorps Provision IV. I. prohibiting “lump sum” payments to members who are released after serving 1,700 hours. In a document titled, “Living Allowance FAQ,” published 12/13/2005, the Corporation clarifies this policy:

“The Corporation published the clarified Provision Section IV. I. on September 6, 2005. The Director of AmeriCorps sent out a memo of explanation on October 18, 2005 to clarify the start date:

‘We recognize that the timing of this clarification may have created problems for some programs. We want to be very clear on the effective date. The change is effective as of September 6, 2005. Programs that signed contracts or enrolled members prior to September 6, 2005 based on agreements that do not conform to the new provisions may follow their existing written policies and contract agreements until new contracts are executed.’”

LAFLA entered into agreements with two members prior to September 6, 2005. LAFLA and Equal Justice Works challenge questioned living allowance payments of \$4,077 (\$1,890 Federal) made to these members in PY 2005-2006. LAFLA does not challenge questioned costs of \$3,354 (\$1,561 Federal) in lump sum living allowance payments made in PY 2006-2007. LAFLA acknowledges that such payments were prohibited for 2006-2007 members, and for all current and future members.”

Public Counsel responds to this result as follows:

“Public Counsel is aware that in PY 2006-2007, the citizenship verification forms were signed after the members began service. These members are attorneys and therefore must be Permanent Lawful Residents or U.S. citizens to sit for the California bar.

Public Counsel is aware that some of the member health care, member training and staff training costs were not supported but does points out that we had substantial overages in our match requirements. As stated in Result 7, this was addressed when we changed our procedure to reflect actual expenditures.

Public Counsel disputes the claim that two members in PY 2006-2007 were provided advance living allowance payments. Public Counsel’s grant year is August 1st to July 31st. In order to maintain accurate payment cycles and reconciliation, we cut a 1/24th check in the middle of August 2006, but did not provide that check to the member until they began service. The members did not receive more than 24 equal payments that totaled their full award.”

Responses to recommendations:

9a. Equal Justice Works welcomes the opportunity to work with the Corporation to strengthen our training and monitoring of subgrantees.

9b. Equal Justice Works welcomes verification from the Corporation of our training and monitoring of subgrantees.

9c. Equal Justice Works and LAFLA accept LAFLA’s questioned costs for lump sum payments made in 2006-2007 and challenge LAFLA’s questioned costs for lump sum payments made in 2005-2005 (\$1,890).

10. Result: EJW did not have written procedures to perform subgrantee site visits or desk reviews and did not have procedures to obtain subgrantee audit management letters or perform necessary reconciliations.

Response:

Equal Justice Works contends our current policies and procedures meet Federal requirements and we challenge these results.

Basis:

Equal Justice Works maintains a rigorous monitoring process, as outlined in the Site Guide: <http://www.equaljusticeworks.org/communities/participants/ameriCorps/siteguide>.

Program monitoring and compliance occurs according to the life cycle of the program:

- Site selection. A key criterion for site selection is organizational capacity and experience managing federal grants.
- Technical assistance. Once selected as a site, we utilize technical assistance calls and a program startup blueprint.
- Training. At the beginning of August each year, we train staff from all sites (Project Directors and Fiscal Managers) on grant compliance and financial management.
- Ongoing site file and WBRS checks. In the first month of the program year, we require sites to submit member contracts, enrollment forms and documentation of eligibility. We also require sites to submit enrollment and exit forms in WBRS within 30 days.
- Site visits. The site visit protocol used by Equal Justice Works is included in the Site Guide.
- Desk Audits. In 2006-2007, these were conducted with all sites that did not receive a site visit.
- Check in calls and regular communication. In addition to emailed monthly updates, AmeriCorps program staff maintains regular phone and electronic communications with both site staff and AmeriCorps Fellows.

Equal Justice Works acknowledges that there is no procedure in place to obtain management letters. AmeriCorps Provision V, section 3 B, outlines the responsibilities of pass-through entities as follows:

A recipient of a Federal grant (pass-through entity) is required in accordance with paragraph 400(d) of OMB Circular A-133, to do the following with regard to its subrecipients: (1) identify the Federal award and funding source; (2) advise subrecipients of all requirements imposed on them; (3) monitor sub-recipient activities and compliance; (4) ensure sub-recipients have A-133 audits when required; (5) issue decisions and ensure follow-up on audit findings in a timely manner; (6) where necessary, adjust its own records and financial statements based on audits; and (7) require sub-recipients to permit access by the pass-through entity and auditors to

records and financial statements, as necessary, for the pass-through entity to comply with A-133.

OMB Circular A-133 requires pass through entities to collect audits, but not management letters.

Response to recommendations:

10a. Equal Justice Works challenges the result that our monitoring processes and tools are out of compliance.

10b. Equal Justice Works challenges the result that requiring management letters is a requirement.

10c. Equal Justice Works welcomes verification that our monitoring efforts are in compliance.

10d. Equal Justice Works welcomes monitoring by the Corporation to ensure compliance.

Conclusion

For the foregoing reasons, Equal Justice Works challenges an overwhelming majority of these results and requests substantial changes to the draft report submitted by Cotton & Co. to the Office of the Inspector General. Equal Justice Works challenges \$69,365 of the total questioned costs, \$71,562.

Thank you for your consideration.

Sincerely,



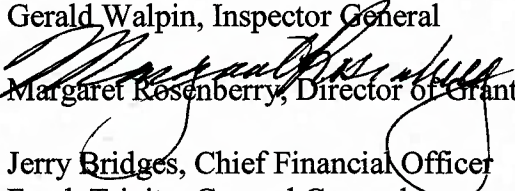
David Stern

Chief Executive Officer

APPENDIX B
CORPORATION'S
RESPONSE TO AGREED-UPON PROCEDURES REPORT

Corporation for
**NATIONAL &
COMMUNITY
SERVICE** 

To: Gerald Walpin, Inspector General

From: 
Margaret Rosenberry, Director of Grants Management

Cc: Jerry Bridges, Chief Financial Officer
Frank Trinity, General Counsel
Kristin McSwain, Director of AmeriCorps
Carol Bates, Assistant Inspector General for Audit
Sherry Blue, Audit Resolution Coordinator

Date: June 12, 2008

Subj: Response to OIG Draft of Agreed-Upon Procedures of Grants Awarded to Equal Justice Works

Thank you for the opportunity to review the draft Agreed-Upon Procedures report of the Corporation's grants awarded to Equal Justice Works. In response to your request to provide comments prior to the expiration of your contract with the audit firm, we are addressing only one finding at this time. We will respond to all findings and recommendations in our management decision when the final audit is issued.

The auditors questioned living allowance payments made to members attributable to hours served before they signed their contracts. They also deducted the hours served before the contract was signed and questioned the education award if the hours served were insufficient to earn the education award after the deduction. The Corporation does not agree that the hours served before the members signed a contract should be deducted. The audit report does not provide any evidence that the members engaged in inappropriate service activities or that they served outside of the period of performance of the grant. The only issue raised by the audit report is whether service hours may be recorded prior to an individual signing a member contract.

Neither the national service legislation nor implementing regulations even mention a member contract as a pre-condition for serving as an AmeriCorps member. The grant provisions require a member contract for the purpose of informing members of their rights and responsibilities and as an element of establishing an obligation in the National Service Trust, but not as a pre-condition for recording service hours.

The only criteria referenced by the audit report are the grant provisions. We do not interpret the grant provisions as disallowing otherwise legitimate service hours solely

because they were performed prior to signature of a member contract. The provision itself defines enrollment, not the service start date, and does not state that the member contract signature date must coincide with the term of service start date. In fact the provision, in Section IV C.1.a.iii says that an individual is enrolled when “the individual has begun a term of service;” and, the provisions in C.1.d. state “Member Enrollment: Within 30 calendar days of the member starting service the program must complete and approve the enrollment”. Thus, the provision itself describes enrollment as occurring subsequent to the beginning of the term of service. Read in its entirety, the criteria for this finding is a requirement that the grantee be diligent in the overall enrollment process for its AmeriCorps members within a reasonable time after they have begun service. The provision itself states that non-compliance could result in possible sanctions to the program, such as re-assignment of unfilled AmeriCorps positions to other programs, or suspending or terminating the award. Thus, there is no indication that this provision in any way defines criteria attributable to an AmeriCorps member’s ability to perform service toward their commitment. Therefore, we cannot concur that the performance of service prior to signing a member contract is an appropriate basis to question education awards.

The Corporation will address the remaining questioned costs and other findings during audit resolution after the audit is issued as final.