



**FINAL REPORT  
LEGAL SERVICES CORPORATION  
Office of Compliance and Enforcement**

West Tennessee Legal Services, Inc.  
Case Service Report/Case Management System Review  
March 5-8, 2012

Recipient No. 643061

## **I. EXECUTIVE SUMMARY**

**Finding 1:** Sampled cases evidenced that WTLS' automated case management system (ACMS) is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. While the review team was on site, WTLS' ACMS was modified to change its CSR de-select code from "K" to "X."

**Finding 2:** WTLS' intake procedures and case management system generally support WTLS' compliance related requirements. However, there was an exception noted in one (1) office with respect to screening for citizenship eligibility.

**Finding 3:** Sampled cases evidenced that WTLS maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines (FPG). Additionally, WTLS' income eligibility policy is compliant with 45 CFR § 1611.5.

**Finding 4:** Sampled cases evidenced that WTLS maintains the asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. WTLS' asset eligibility policy is compliant with 45 CFR §§ 1611.2(d) and 1611.3(d)(1) and (e).

**Finding 5:** WTLS is in non-compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens). There were sampled case files reviewed that did not contain a citizenship attestation. Policies reviewed evidenced compliance with 45 CFR Part 1626.

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

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

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

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

**Finding 10:** Sampled cases evidenced that WTLS' application of the CSR case closure categories is consistent with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011). There were a limited number of cases that contained incorrect closing codes.

**Finding 11:** Sampled cases evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Dormancy and untimely closure of cases).

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

**Finding 13: Review of WTLS' policies, the list of attorneys who have engaged in the outside practice of law, staff interviews, interviews with the Executive Director, three (3) Managing Attorneys, and all of the attorneys who have engaged in the outside practice of law during the review period revealed that WTLS is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law).**

**Finding 14: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).**

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

**Finding 16: A limited review of WTLS' accounting and financial records, observations of the physical locations of program field offices, and interviews with staff indicated compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity) in reference to sharing physical space with a non-LSC entity engaged in restricted activities.**

**Finding 17: WTLS is in substantial compliance with 45 CFR § 1614.3(d)(3), which requires oversight and follow-up of the PAI cases. Additionally, WTLS is in compliance with 45 CFR Part 1614, which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients.**

**Finding 18: WTLS is in compliance with 45 CFR § 1627.4(a), which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization.**

**Finding 19: WTLS is in compliance with 45 CFR Part 1635 (Timekeeping requirement).**

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

**Finding 21: Sampled cases reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). Policies reviewed evidenced compliance with the requirements of 45 CFR Part 1612.**

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

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

**Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting). Policies reviewed evidenced compliance with the requirements of 45 CFR Part 1632.**

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

**Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners). Policies reviewed evidenced compliance with the requirements of 45 CFR Part 1637.**

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

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

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

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

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

**Finding 32: Policies reviewed evidenced compliance with the requirements of 45 CFR Part 1639 (Restrictions on welfare reform).**

**Finding 33: A limited review of WTLS' internal control policies and procedures demonstrated that the program's policies and procedures compare favorably to Chapter 3- the Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of LSC's Accounting Guide for LSC Recipients (2010 Edition) and LSC Program Letter 10-2.**

## II. BACKGROUND OF REVIEW

During the week of March 5 - 8, 2012, staff of the Office of Compliance and Enforcement (OCE) conducted a Case Service Report/Case Management System (CSR/CMS) Review at West Tennessee Legal Services, Inc. (WTLS). The purpose of the visit was to assess the program's compliance with the LSC Act, regulations, and other applicable guidance such as Program Letters, the LSC Accounting Guide for LSC Recipients (2010 Edition), and the Property Acquisition and Management Manual. The visit was conducted by a team of two (2) attorneys and two (2) fiscal analysts.

The on site review was designed and executed to assess program compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that WTLS has correctly implemented the 2008 CSR Handbook, as amended 2011. Specifically, the review team assessed WTLS for compliance with the regulatory requirements of: 45 CFR Part 1611 (Financial eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); CFR § 1611.9 (Retainer agreements); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1604 (Outside practice of law); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR Part 1614 (Private attorney involvement)<sup>1</sup>; 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); 45 CFR Part 1642 (Attorneys' fees)<sup>2</sup>; 45 CFR Part 1630 (Cost standards and procedures); 45 CFR 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); and 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion).

The OCE team interviewed members of WTLS' upper and middle management, staff attorneys, and support staff. WTLS' case intake, case acceptance, case management, and case closure practices and policies in all substantive units were assessed. In addition to interviews, case file review was conducted. The sample case review period was from January 1, 2009 through December 31, 2011. Case file review relied upon randomly selected files as well as targeted files identified to test for compliance with LSC requirements, including eligibility, potential duplication, timely closing, and proper application of case closure categories. In the course of the on site review, the OCE team selected 233 cases to review on site, which included 19 targeted files. All of the selected cases were reviewed.

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<sup>1</sup> In addition, when reviewing files with pleadings and court decisions, compliance with other regulatory restrictions was reviewed as more fully reported *infra*.

<sup>2</sup> On December 16, 2009, the enforcement of this regulation was suspended and the regulation was later revoked during the LSC Board of Directors meeting on January 30, 2010. During the instant visit, LSC's review and enforcement of this regulation was therefore only for the period prior to December 16, 2009.

WTLS currently provides legal services to eligible clients in the following counties in Western Tennessee: Benton, Carroll, Chester, Crockett, Decatur, Dyer, Gibson, Hardeman, Hardin, Haywood, Henderson, Henry, Lake, McNairy, Madison, Obion, and Weakley. WTLS provides client services at four (4) offices located in the cities of Jackson, Selmer, Huntingdon, and Dyersburg. WTLS' central office is located in Jackson, Tennessee.

WTLS received basic field grant awards from LSC in the amounts of \$707,187.00 for 2009, \$763,577.00 for 2010, and \$732,012.00 for 2011. In its 2011 CSR submission to LSC, the program reported 1,864 closed cases and in its 2010 CSR submission to LSC, the program reported 1,849 closed cases. WTLS' 2011 self-inspection certification revealed a 3.25% error rate in CSR reporting. WTLS' 2010 self-inspection certification revealed a 6.17% error rate in CSR reporting.

By letter dated January 10, 2012, OCE requested that WTLS provide a list of all cases reported to LSC in its 2009 CSR data submission (closed 2009 cases), a list of all cases reported in its 2010 CSR data submission (closed 2010 cases), a list of all cases closed between January 1, 2011 and December 31, 2011 (closed 2011 cases), and a list of all cases which remained open as of December 31, 2011 (open cases). OCE requested that the lists contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closing category assigned to the case and the funding code assigned to the case. OCE requested that two sets of lists be compiled - one for cases handled by WTLS staff and the other for cases handled through WTLS' PAI component. WTLS was advised that OCE would seek access to such cases consistent with Section 509(h), Pub.L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10, 11, and 12, and the LSC *Access to Records* protocol (January 5, 2004). WTLS was requested to notify OCE promptly, in writing, if it believed that providing the requested material in the specified format would violate the attorney-client privilege or would be otherwise protected from disclosure.

Thereafter, an effort was made to create a representative sample of cases that the team would review during the on site visit. The sample was developed proportionately among 2009, 2010, 2011, and 2012 open cases. The sample consisted largely of randomly selected cases, but also included targeted cases selected to test for compliance with the CSR instructions relative to timely closings, proper application of the CSR case closing categories, duplicate reporting, etc.

During the visit, access to case-related information was provided through staff intermediaries. Pursuant to the OCE and WTLS agreement of February 24, 2012, WTLS staff maintained possession of the file and discussed with the team the nature of the client's legal problem and the nature of the legal assistance rendered. In order to maintain confidentiality such discussion, in some instances, was limited to a general discussion of the nature of the problem and the nature of the assistance provided.<sup>3</sup>

WTLS' management and staff cooperated fully in the course of the review process. As discussed more fully below, WTLS was made aware of compliance issues during the on site visit. This was

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<sup>3</sup> In those instances where it was evident that the nature of the problem and/or the nature of the assistance provided had been disclosed to an unprivileged third party, such discussion was more detailed, as necessary to assess compliance.

accomplished by informing intermediaries, as well as Managing Attorneys, and the Executive Director, of any compliance issues uncovered during case review.

At the conclusion of the visit, on March 8, 2012, OCE conducted an exit conference during which WTLS was provided with OCE's initial findings and was made aware of the areas in which compliance issues were found. OCE noted compliance in the areas of 45 CFR Part 1611 (Financial eligibility policies) and substantial compliance in the areas of 45 CFR § 1611.9 (Retainer Agreements) and CSR Handbook (2008 Ed., as amended 2011), Chapters VIII and IX (Case closure categories); and non-compliance was noted in the area of 45 CFR § 1626.6 (Verification of citizenship).

By letter dated April 26, 2012, OCE issued a Draft Report (DR) detailing its findings, recommendations, and required corrective actions. WTLS was asked to review the DR and provide written comments. On May 22, 2012, WTLS requested, and received, an extension of the due date for their response to the DR. Pursuant to the extension, WTLS agreed to submit its response to the DR by June 22, 2012. By electronic mail dated June 21, 2012, WTLS submitted its comments to the DR. OCE has carefully considered WTLS' comments and has either accepted and incorporated them within the body of the report, or responded accordingly. WTLS' comments, in their entirety, are attached to this Final Report.

### III. FINDINGS

**Finding 1: Sampled cases evidenced that WTLS' automated case management system (ACMS) is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. While on site, WTLS' ACMS was modified to change its CSR de-select code from "K" to "X."**

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

Based on a comparison of the information yielded by the ACMS to information contained in the case files sampled, WTLS' ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. All cases reviewed contained information in the file that was inconsistent with that in the ACMS.

While on site, it was observed that WTLS utilized closing code "K" to, among other things, designate cases as having been de-selected, so that those cases would not be included in WTLS' CSR data submission. Discussions with the Executive Director and two (2) Managing Attorneys, as well as review of the CSR Handbook (2008 Ed., as amended 2011), § 3.5, led WTLS to cease usage of "K" as its de-select code and begin to utilize "X" as the de-select code. This change was made to ensure that LSC case closure codes would only be used in instances

where the level of service corresponds with the selected code. While the review team was on site, WTLS' ACMS was modified to reflect that "X" was the proper code to utilize when de-selecting cases from WTLS' CSR data submission. Additionally, during the visit, the Executive Director instructed WTLS staff to utilize LSC closing codes to close cases only when the level of service is consistent with the closing code selected.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

**Finding 2: WTLS' intake procedures and case management system generally support WTLS' compliance related requirements. However, there was an exception noted in one office with respect to screening for citizenship eligibility.**

The intake procedures of all WTLS offices were assessed by interviewing the primary intake staff and the Managing Attorneys in order to ascertain WTLS' compliance in relation to the intake process. The interviews revealed that intake procedures performed by the intake staff generally support the program's compliance related requirements with respect to obtaining written citizenship attestations, performing conflict and duplicate checks during the intake process, inquiring as to an applicant's reasonable income prospects, and considering all authorized exceptions and factors when screening an applicant for income eligibility. However, an exception was noted in one (1) office with respect to screening for citizenship eligibility.

WTLS Hotline

Presently, WTLS uses a de-centralized intake system and intake hotline referred to as the WTLS Intake Hotline (Hotline) to conduct intake for all of their offices. The Hotline is operated Monday through Friday from 8:30 to 11:00 a.m. and 1:00 to 3:30 p.m. WTLS uses the PIKA computerized case management system as its ACMS. There were no defaults in the essential categories. The Hotline is staffed at all times by at least two (2) intake staff members, and WTLS staff attorneys provide legal assistance to Hotline callers when necessary. There are back-up Hotline staff members, comprised of both intake staff and attorneys, located in three (3) of WTLS' offices. The Hotline is supervised by an intake Managing Attorney, who assists callers on the Hotline when necessary.

WTLS' Hotline system directs each caller into a telephone-holding queue. Intake staff answers calls by order of time called. Intake staff first pre-screens the caller for conflicts, duplicates, income, case type/priorities, and service area. After pre-screening, intake staff screens for eligibility and enters the client's information into the ACMS. The intake staff enters the applicant's and the adverse party's name and address, notes the applicant's demographic information and household size, and enters the household income, assets, and citizenship or other eligible alien status directly into the ACMS. If intake staff is uncertain as to the eligibility of an applicant, a note is made in the critical ACMS field and the case is transferred to the Hotline Managing Attorney and/or the Executive Director for further review. Additionally, the Hotline



Managing Attorney reviews all potential conflicts. The intake staff will briefly interview the applicant to obtain information concerning the nature of the legal problem.

After the intake is completed, the intake staff will schedule an appointment for the applicant to meet with a WTLS staff attorney, or transfer the call to a staff attorney for review and to provide brief legal assistance, if appropriate. The staff attorney reviews the intake to ensure that all of information needed for LSC compliance is recorded. The staff attorney then determines whether the applicant satisfies the income, asset, citizenship, and priority guidelines set by WTLS. The staff attorney also reviews conflicts, citizenship, and determines whether to accept the case for immediate advice, whether to transfer the applicant to another branch office, whether to transfer it to WTLS' PAI component, or whether to reject the case. If the applicant is ineligible for services, the staff attorney will inform the applicant of their ineligibility and attempt to refer the applicant to an applicable social service program for assistance. The staff attorneys provide advice and brief services by telephone and will provide extended services when necessary. WTLS' practice is to obtain written citizenship/alien documentation and retainer agreements for all extended service cases.

Hotline intake staff reported that when presented with an applicant who is over-income and/or over-asset, they will obtain and document the existence of any authorized factors or exceptions to the income/asset ceiling, and send the file to a Managing Attorney or the Executive Director for a determination on case acceptance. The Executive Director will execute an over-asset/over-income waiver when applicable. According to interviews, intake staff has not conducted group eligibility determinations. Additionally, both intake staff and Managing Attorneys indicated that they do not conduct group eligibility determinations, pursuant to the requirements of 45 CFR §§ 1611.6 and 1611.7, as all of the applicants who are screened for eligibility are individual applicants, and they have never had a recent occasion to screen a group applicant.

On site review of the intake system indicated that intake staff is consistent in their use of the ACMS to conduct income and asset eligibility screenings, collect demographic information, perform conflict checks, verify citizenship, and store electronic reporting data. Intake staff demonstrated familiarity with program priorities and the citizenship and alien eligibility requirements of 45 CFR Part 1626. Case acceptance is done by staff and Managing Attorneys on an individual basis and the attorneys will communicate case acceptance or rejection to an applicant via telephone and/or written letter. Managing and staff attorneys generally close their cases the same day advice is provided, and the client is mailed a closing letter.

If, after the initial intake screening, the client requires immediate assistance, or the applicant's case is a type that is typically handled by WTLS' *pro bono* attorneys, the case will be reviewed by a staff attorney, who may refer the applicant to WTLS' PAI component. If the case is successfully referred to WTLS' PAI component, the staff attorney changes the responsible office and case handler codes in the ACMS. The case is then electronically moved from the staff attorney's case list to the PAI coordinator's case list and the PAI coordinator routinely monitors this list to ensure that all referred cases are timely matched with a volunteer attorney.

Cases are reviewed at closing and at the end of every year by Managing Attorneys, who review them for financial eligibility and legal accuracy. Errors are located and corrected during this

process. Oversight of the supervision of compliance related activities is performed by a senior Managing Attorney who performs quarterly quality control checks of compliance activities by generating ACMS reports for citizenship, closing codes, duplicates, income and asset amounts, timeliness, funding codes, and data entry mistakes. If a discrepancy is discovered, the file is reviewed and the error corrected.

### Walk-in or Telephone (non-Hotline) Intake Procedures

*Overview of Intake Process:* There are three (3) WTLS offices that conduct both walk-in and telephone intake screenings. The screening process for both walk-in and telephone applicants is virtually identical. Initially, an applicant may walk into the office during scheduled intake hours. A walk-in applicant is greeted by the receptionist and is provided a Walk-In Questionnaire to complete. The Walk-In Questionnaire is completed manually by the applicant and obtains the applicant's background information, such as name, date of birth, etc. Prior to initiating the intake interview, walk-in applicants are required to verify their citizenship eligibility status and a conflict check is performed. If the intake is being done over the telephone, the applicant is asked to verbally verify their citizenship or alien eligibility status. Once the Walk-In Questionnaire has been completed and reviewed, the applicant is asked to complete an Application for Assistance and is taken into a private screening room, where their application is reviewed by an intake staff member. At this time, a full intake screening is conducted and the information from the Application for Assistance is reviewed by the intake worker and input into the ACMS. If the applicant is applying for services over the telephone, the intake screening commences when all of the information requested on the Walk-In Questionnaire has been provided.

The screening process, which entails citizenship screening, financial eligibility screening, and a conflicts and duplicate check, is conducted using PIKA. After all eligibility screening is completed, and the applicant is deemed eligible for services by an intake staff member, the signed intake documents are gathered and given to a staff attorney who reviews the intake documents to confirm that the applicant is eligible for services. After reviewing the intake documents and confirming eligibility, the staff attorney usually meets with the applicant the same day. If no attorney is available to meet with the client, an appointment is made for the client to meet with an attorney as soon as possible. If only brief assistance is required, the attorney will provide legal advice at the initial meeting. If the case requires extended representation, the attorney will make the determination of whether to accept the client's case for extended representation. The client is informed verbally, as well as by letter, as to whether their case will be accepted for further representation. At the conclusion of representation, the attorney will send the client a case closure letter, which outlines the results of representation, assign a closing code, and close the case in PIKA.

*Reasonable Income Prospects Screening:* Pursuant to the requirements of 45 CFR § 1611.7(a) (1), all intake staff interviewed reported that proper inquiry is made into the reasonable income prospects of applicants. The specific question for reasonable income prospects is asked during the intake screening process by intake staff and the applicant's response is recorded in the notes section of the ACMS. Additionally, the manual intake form and the ACMS contain fields to record an applicant's reasonable income prospects. However, while WTLS does have in place a process to query all applicants regarding possible changes in income, the methodology used is

not comprehensive in that it merely seeks to obtain information as to whether an applicant's current income prospects are "poor," "same," or "better." The potential effects of the three (3) different answers were discussed with intake staff. It was related by staff that applicants who reported "better" income prospects would require further discussion with the intake Managing Attorney and/or with the applicant regarding why the applicant believed their income was likely to improve in the future. It was further related that applicants that indicated that their income prospects were "poor" or "same" resulted in a determination that the income information provided by the applicant could be relied upon by WTLS and that further inquiry was not necessary.

*Citizenship and Eligible Alien Status Screening:* The majority of intake staff interviewed demonstrated familiarity with the alien eligibility requirements of 45 CFR Part 1626. Intake staff reported that they verify citizenship status during intake screening and, when necessary, request documentation of eligible alien status. However, one intake staff member, who primarily handles non-LSC cases and does not perform intake screenings for LSC cases, reported that walk-in applicants are provided with access to an office and telephone to call the Hotline and apply for services, and occasionally receive legal assistance prior to executing a written citizenship attestation or verifying their eligible alien status. Additionally, this staff member believed she was required to obtain permission from telephone applicants for legal services to sign a citizenship attestation on their behalf, when they would not be appearing in any WTLS office. This worker is located in an office that primarily handles cases associated with a specific grant, which allows WTLS to provide non-legal services to members of the community. This intake worker also expressed confusion as to what constitutes provision of legal information versus the provision of legal assistance.

The confusion regarding the provision of legal assistance resulted from applicants presenting a request for social services assistance, which sometimes resulted in legal advice being provided. For example, a walk-in applicant may walk into this particular office and request assistance with obtaining primary medical care, which is a non-legal service covered under the grant. Once the paralegal has decided to assist the applicant, she will review their financial circumstances to determine which medical programs are available. In processing the request, the paralegal may review the government benefits the person is receiving (e.g., Food Stamps) and recommend that they seek an increase or reduction in benefits, based on an analysis of the Food Stamps guidelines and the person's income. While this is not done in every case or on a routine basis, the recommendation to seek an increase or decrease in benefits based on a factual analysis of the person's financial situation constitutes the provision of legal assistance. As such, all persons who receive legal assistance should be required to execute a citizenship attestation or verification of alien eligibility form prior to receiving the assistance. Additionally, in all instances where legal assistance has been provided and the case is LSC-eligible, a case file should be created, manually or electronically, that contains all required eligibility documentation, so that those cases can be included in WTLS' CSR data submission.

When this matter was brought to the attention of the Executive Director, he instructed the paralegal that, in the future, she is to have a citizenship attestation or verification of eligibility form signed prior to allowing any potential applicant for legal services use the office telephone to contact any WTLS branch office, and prior to providing a potential applicant with WTLS'

intake hotline number. It was further explained that only the client or their non-program designee should sign any forms, attestations, or retainers required as part of representation. Once the applicant is fully screened by WTLS' intake hotline and their case is accepted for services to be completed by that office, the paralegal was instructed to include the previously executed citizenship attestation in the client's file. If the applicant does not pursue the request for legal assistance, or their case is rejected, the paralegal was instructed to retain the attestation until instructed by the Executive Director to purge it from the office records. Additionally, regarding all future walk-in applicants for services that may include the provision of legal assistance, the paralegal was instructed by the Executive Director, pursuant to the requirements of 45 CFR § 1626.3, to have a citizenship attestation or verification of alien eligibility form executed prior to providing anyone with legal assistance, and to retain the form until instructed by the Executive Director to discard it.

Intake staff interviewed demonstrated an understanding of the applicability of 45 CFR § 1626.4 and Program Letter 06-2, Violence Against Women Act 2006 Amendments (VAWA), with respect to removal of the requirement to obtain a signed citizenship attestation or alien eligibility documentation from an otherwise ineligible alien.

*Income Screening:* The intake staff expressed understanding that an applicant will be considered eligible if the applicant's income is under 125% of the Federal Poverty Guidelines (FPG). Additionally, intake staff indicated that, pursuant to 45 CFR § 1611.5(a)(4), if an applicant's income was between 125% and 200% of the FPG, authorized exceptions and factors could be applied that may render the applicant eligible for services. Lastly, intake staff understood that in certain instances, when an applicant's income exceeded 200% of the FPG, the applicant may still be eligible for services if the requirements of 45 CFR § 1611.5(a) are met.

*Asset Screening:* Interviews revealed intake staff is familiar with the categories of assets that could be excluded by WTLS, as well as the asset ceiling amounts. Additionally, intake staff indicated an understanding of all of the assets that could be excluded from the total asset calculation per WTLS' policy. However, all intake staff interviewed stated that while the total value of assets is obtained and recorded in the manual intake form, the data that is recorded in the ACMS is whether the applicant's assets are below or over the asset limit. For example, if an applicant is part of a two (2) person household, the individual values of all of the applicant's assets are recorded on the manual intake form, but the intake worker will only note in the ACMS if the applicant's assets are below or exceed WTLS' asset limit for a two (2) person household, not the numerical, total value of the assets.

*Conflicts:* When WTLS intake staff encounters a potential conflict of interest, the file is given to a Managing Attorney to make a determination. If the Managing Attorney determines that a conflict exists, the case is rejected and the client is notified that their case cannot be accepted, due to a conflict of interest.

*Outreach:* WTLS conducts community education outreach regarding domestic violence, debt collection, consumer scams, and housing/landlord issues. All of WTLS' outreach is funded with non-LSC funds. It was explained that all outreach events are informational and that no legal advice is provided to participants.

WTLS has begun an initiative, through its PAI component, to conduct outreach at senior citizen assisted living facilities to educate the community on the elements of advanced medical care documents. At these events, the PAI coordinator indicated that for those cases that will be included in WTLS' CSR reporting, WTLS will perform full eligibility screenings by use of a manual intake form and the standard citizenship/alien eligibility certification form. For those cases that will not be included in the reporting, applicants will be screened for citizenship eligibility and required to execute an attestation or verification of alien eligibility. For those cases where there is no adverse party (e.g., advising on the need for a Durable Power of Attorney), brief legal advice may be given by the attorneys while they are on site. For cases where there are adverse parties, the applicants will be provided with legal information and a conflict check will be done by entering the necessary information into the ACMS prior to accepting the applicant and providing legal advice.

*Intake Forms:* The forms provided by WTLS for review were the Walk-In Questionnaire, Application for Assistance, Citizenship Attestation, Verification of Alien Eligibility, Disclaimer, Authorization for Release of Information, Retainer Agreements, LSC Eligibility Check List, and LSC Self-Inspection Case Review Form. While on site, these forms were reviewed for compliance and recommendations were made with respect to the Citizenship Attestation and Verification of Alien Eligibility forms.

Prior to the compliance visit, WTLS utilized the following phrase as both its citizenship attestation and verification of alien eligibility: "I further certify that I am a citizen or legal permanent resident of the United States of America, or eligible under § 1626.5 (Copy available upon request)." While on site, it was recommended that WTLS utilize an attestation that was compliant with the requirements of 45 CFR § 1626.6 and CSR Handbook (2008 Ed., as amended 2011), § 5.5, and a separate form for verification of an applicant's eligible alien status. Upon discussions with the Executive Director and two (2) Managing Attorneys, WTLS' citizenship attestation was revised to read: "I am a citizen of the United States. Date \_\_\_\_\_ Signature of Applicant \_\_\_\_\_" Additionally, a separate form was created to verify an applicant's alien eligibility, which met the requirements of 45 CFR §§ 1626.4, 1626.5, 1626.7, 1626.10, and 1626.11. The revised intake documents were reviewed during the visit and met with approval. During the compliance visit, the Executive Director indicated that the approved forms would replace the previously used forms effective immediately, and that intake staff would receive instructions and training regarding the new forms during the week following the visit.

Based on the above-referenced findings, the DR recommended that, pursuant to the requirements of 45 CFR Part 1626, WTLS intake staff be provided periodic training regarding timely screening applicants for citizenship or alien eligibility and that WTLS ensure proper execution of citizenship attestations prior to providing applicants with legal assistance or access to an office or telephone to call the Hotline and apply for services. This action was recommended, in part, to ensure that the corrective action required in Finding 5 *infra* would be accomplished.

The DR also recommended that a periodic review be conducted of the cases closed in the WTLS office that does not primarily handle LSC-eligible cases to ensure that WTLS includes that office's LSC-eligible cases in its CSR data submission, when appropriate.

In its response to the DR, WTLS indicated that all recommendations in the DR have been reviewed and will be considered as WTLS continues to strive to improve the delivery of its services. Additionally, WTLS stated that it believes "all issues raised in the DR have been implemented..."

The DR instructed WTLS to take steps to ensure consistent application, program-wide, of its newly revised financial eligibility policy to ensure that the requirements of 45 CFR Part 1611 are met, specifically with respect to recordation of actual, numerical asset values in both the manual intake form and ACMS, as well as a comprehensive review of reasonable income prospects for all applicants.

In its response to the DR, WTLS indicated that this corrective action was addressed during the visit with staff training on the revisions to the financial eligibility policy. Pursuant to discussions with the Executive Director throughout the duration of the visit, staff was trained on the revisions to the financial eligibility policy during the visit so that questions regarding implementation could be addressed prior to conclusion of the visit. After extensive review, both the concept of ongoing staff training and the revisions to the financial eligibility policy were subsequently approved by WTLS' Board of Directors at the Board meeting that took place on April 23, 2012. Pursuant to the draft Board minutes, which were provided by the Executive Director on June 21, 2012, and are expected to be approved at the next Board meeting, WTLS adopted this corrective action and will continue to provide staff training and monitoring, as needed, to ensure full compliance.

**Finding 3: Sampled cases evidenced that WTLS maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines (FPG). Additionally, WTLS' income eligibility policy is compliant with 45 CFR § 1611.5.**

Recipients may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance. *See* 45 CFR § 1611.4(a). Specifically, recipients must establish financial eligibility policies, including annual income ceilings for individuals and households, and record the number of members in the applicant's household and the total income before taxes received by all members of such household in order to determine an applicant's eligibility to receive legal assistance.<sup>4</sup> *See* 45 CFR § 1611.3(c)(1) and CSR Handbook (2008 Ed., as amended 2011), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.2.

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<sup>4</sup> A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

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

For CSR purposes, individuals financially ineligible for assistance under the LSC Act may not be regarded as recipient "clients" and any assistance provided should not be reported to LSC. In addition, recipients should not report cases lacking documentation of an income eligibility determination to LSC. However, recipients should report all cases in which there has been an income eligibility determination showing that the client meets LSC eligibility requirements, regardless of the source(s) of funding supporting the cases, if otherwise eligible and properly documented. *See* CSR Handbook (2008 Ed., as amended 2011), § 4.3.

WTLS maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the poverty guidelines. Cases reviewed demonstrated compliance with 45 CFR § 1611.4, and CSR Handbook (2008 Ed., as amended 2011), § 5.3.

While on site, it was noted that WTLS' financial eligibility policy was substantially compliant with 45 CFR §§ 1611.5 and 1611.6. The WTLS policy that was provided for review in advance of the visit was prepared based on the prior version of 45 CFR Part 1611. As such, it did not incorporate some of the revisions to the regulation that went into effect August 8, 2005. For example, the policy indicated that "medical expenses" and "expenses associated with age or physical infirmity of resident family members" would be considered authorized factors for over-income applicants; however, the revised regulation indicates that *unreimbursed* medical expenses and *unreimbursed* expenses associated with age or physical infirmity can be considered as authorized factors (Emphasis added). Additionally, the policy indicated that over-income applicants may be eligible if their case was "an emergency requiring immediate action," which is not an authorized factor listed in 45 CFR § 1611.5. Pursuant to on site discussions with the Executive Director and two (2) Managing Attorneys regarding WTLS' financial eligibility policy, the policy was revised to reflect the language of the current regulation, and the Executive Director asserted that only exceptions found in 45 CFR § 1611.5 would be listed in WTLS' financial eligibility policy. The revised income eligibility policy was reviewed during the visit and was met with approval. The revised policy is scheduled to be reviewed and approved by the Board in April 2012.

As the same was noted in Finding 2 above, the DR instructed WTLS to take steps to ensure consistent application, program-wide, of its newly revised financial eligibility policy to ensure that the requirements of 45 CFR Part 1611 are met, specifically with respect to recordation of actual, numerical asset values in both the manual intake form and ACMS, as well as a comprehensive review of reasonable income prospects for all applicants.

In its response to the DR, WTLS indicated that this corrective action was addressed during the visit with staff training on the revisions to the financial eligibility policy. Pursuant to discussions with the Executive Director throughout the duration of the visit, staff was trained on the revisions

to the financial eligibility policy during the visit so that questions regarding implementation could be addressed prior to conclusion of the visit. After extensive review, both the concept of ongoing staff training and the revisions to the financial eligibility policy were subsequently approved by WTLS' Board of Directors at the Board meeting that took place on April 23, 2012. Pursuant to the draft Board minutes, which were provided by the Executive Director on June 21, 2012, and are expected to be approved at the next Board meeting, WTLS adopted this corrective action and will continue to provide staff training and monitoring, as needed, to ensure full compliance.

**Finding 4: Sampled cases evidenced that WTLS maintains the asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. WTLS' asset eligibility policy is compliant with 45 CFR §§ 1611.2(d) and 1611.3(d)(1) and (e).**

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.<sup>5</sup> *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4.

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

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

All case files reviewed that contained the documentation to comply with the requirements of 45 CFR § 1611.3(d)(2).

The WTLS asset policy that was provided for review in advance of the visit utilized the terms "liquid asset" and "non-liquid asset" in its determination of financial eligibility. While WTLS' policy definition of "liquid asset" conformed with the definition of asset, as defined in 45 CFR § 1611.2(d), "non-liquid assets" were considered assets and are counted towards the asset ceiling. Pursuant to on site discussions with the Executive Director, the policy was revised to ensure that,

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<sup>5</sup> A numerical total value must be recorded, even if it is zero or below the recipient's guidelines. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4.



pursuant to 45 CFR §§ 1611.3(d)(1) and 1611.2(d), only non-excludable assets that are both readily convertible to cash and available to the applicant would be considered when determining whether the asset ceiling has been reached. Specifically, WTLS removed the distinction between non-liquid and liquid assets and amended the policy to reflect that only assets, as defined in 45 CFR § 1611.2(d), would be considered.

With respect to 45 CFR § 1611.3(d)(1) and (e), WTLS' policy that was provided for review in advance of the visit indicated that the following would not be considered assets and would be exempt from all asset calculations:

1. *All real and personal property in which the applicant has no ownership interest.*
2. *All jointly owned assets if there are impediments to the applicant's access thereto.*
3. *The applicant's first car.*
4. *Burial plots and funeral and burial insurance.*
5. *Government payments which are designed for restoration of a home damaged in a disaster.*
6. *Equity in property if the applicant is institutionalized because of poor health and such property could be excluded if he/she were not institutionalized.*
7. *The equity value of income producing property not to exceed \$30,000.00 and provided that the Managing Attorney has determined that the applicant could not successfully obtain funds by mortgaging same and that the owner is attempting to produce income consistent with its fair market value.*

The list of excludable assets found in 45 CFR § 1611.3(d)(1) is an exhaustive list and cannot be added to. As such, while on site, WTLS was advised to revise the exempt asset list in its financial eligibility policy to include only those items listed in 45 CFR § 1611.3(d)(1). Additionally, it was related that if an asset was deemed excludable pursuant to it being exempt from attachment per a State and/or Federal law, the policy should reflect the specific assets that are exempt, along with a recitation of whether State and/or Federal law authorizes the exemption. Pursuant to on site discussions with the Executive Director and two (2) Managing Attorneys, WTLS revised its asset policy to list only those assets found in 45 CFR § 1611.3(d)(1), and to include a citation to the specific state law that exempted additional listed assets.

While on site, it was noted that the policy provided for review in advance of the visit did not contain a provision exempting assets belonging to a perpetrator of domestic violence, when the applicant was the victim of the domestic violence. WTLS was advised to revise the policy to comply with the requirements of 45 CFR § 1611.3(e), which instructs recipients to consider "only the assets and income of the applicant and members of the applicant's household other than those of the alleged perpetrator of the domestic violence..." Pursuant to on site discussions with the Executive Director and two (2) Managing Attorneys, WTLS revised its asset policy to conform with the requirements of 45 CFR § 1611.3(e).

The revised asset eligibility policy was reviewed in its entirety during the visit and was met with approval. According to WTLS, the revised policy was scheduled to be reviewed and approved by the Board in April 2012.

As the same was noted in Findings 2 and 3 above, the DR instructed WTLS to take steps to ensure consistent application, program-wide, of its newly revised financial eligibility policy to ensure that the requirements of 45 CFR Part 1611 are met, specifically with respect to recordation of actual, numerical asset values in both the manual intake form and ACMS, as well as a comprehensive review of reasonable income prospects for all applicants.

In its response to the DR, WTLS indicated that this corrective action was addressed during the visit with staff training on the revisions to the financial eligibility policy. Pursuant to discussions with the Executive Director throughout the duration of the visit, staff was trained on the revisions to the financial eligibility policy during the visit so that questions regarding implementation could be addressed prior to conclusion of the visit. After extensive review, both the concept of ongoing staff training and the revisions to the financial eligibility policy were subsequently approved by WTLS' Board of Directors at the Board meeting that took place on April 23, 2012. Pursuant to the draft Board minutes, which were provided by the Executive Director on June 21, 2012, and are expected to be approved at the next Board meeting, WTLS adopted this corrective action and will continue to provide staff training and monitoring, as needed, to ensure full compliance.

**Finding 5: WTLS is in non-compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens). There were sampled case files reviewed that did not contain a citizenship attestation. Policies reviewed evidenced compliance with 45 CFR Part 1626.**

The level of documentation necessary to evidence citizenship or alien eligibility depends on the nature of the services provided. With the exception of brief advice or consultation by telephone, which does not involve continuous representation, LSC regulations require that all applicants for legal assistance who claim to be citizens execute a written attestation. *See* 45 CFR § 1626.6. Aliens seeking representation are required to submit documentation verifying their eligibility. *See* 45 CFR § 1626.7. In those instances involving brief advice and consultation by telephone, which does not involve continuous representation, LSC has instructed recipients that the documentation of citizenship/alien eligibility must include a written notation or computer entry that reflects the applicant's oral response to the recipient's inquiry regarding citizenship/alien eligibility. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.5. *See also*, LSC Program Letter 99-3 (July 14, 1999). In the absence of the foregoing documentation, assistance rendered may not be reported to LSC. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.5.

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.<sup>6</sup> Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient's CSR data

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<sup>6</sup> *See* Kennedy Amendment at 45 CFR § 1626.4.

submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, "Violence Against Women Act 2006 Amendment" (February 21, 2006), which instructs recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual assault or trafficking, or who qualify for a "U" visa. LSC recipients are now allowed to include these cases in their CSRs.

Sampled cases evidenced non-compliance with the requirements of 45 CFR § 1626.6. There were a limited number of case files reviewed that did not contain citizenship attestations when required. *See* Case Nos. 09-0021749, 11-0026518, and 1-11-0028510. Although the file notes indicated that there was in person contact between the client and WTLS in each of these cases, the case files did not contain executed citizenship attestations.

Additionally, all of the sampled case files reviewed contained a citizenship attestation form that did not comply with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 5.5. The case notes in all of these cases indicated that the cases were opened after January 1, 2008, and that there was in person contact between the client and a WTLS staff worker and/or attorney. As discussed in Finding 2 *supra*, during the on site review, WTLS' citizenship attestation was revised to state: "I am a citizen of the United States. Date \_\_\_\_\_ Signature of Applicant \_\_\_\_\_" Additionally, a separate form was created to verify an applicant's alien eligibility that meets the requirements of 45 CFR §§ 1626.4, 1626.5, 1626.7, 1626.10, and 1626.11. The revised citizenship/alien eligibility documents were reviewed during the visit and were met with approval. During the compliance visit, the Executive Director indicated that the approved forms would replace the previously used forms effective immediately, and that intake staff would receive instructions and training regarding the new forms during the week following the visit.

The citizenship/alien eligibility policy that was provided by WTLS for review in advance of the visit indicated that WTLS could provide services to eligible aliens, but did not list the categories of eligibility, or the documentation required to be reviewed in order to determine eligibility. While on site, it was recommended that the policy be revised to include the alien eligibility categories and enumerate those items that must be reviewed prior to rendering legal assistance, pursuant to 45 CFR §§ 1626.5, 1626.6, 1626.7, 1626.10, 1627.11, and Appendix to Part 1626. Additionally, the policy provided in advance of the visit did not indicate that both non-LSC and LSC funds could be used to provide legal assistance to an otherwise ineligible alien who had been battered or subjected to extreme cruelty, pursuant to 45 CFR § 1626.4, when the assistance was directly related to the prevention or relief from the battery or extreme cruelty. While on site, it was recommended that the policy be revised to reflect that, pursuant to LSC Program Letter 06-2, both non-LSC funds and LSC funds could be used to represent clients who are the victims of battery or extreme cruelty.

The above-referenced recommended revisions to WTLS' citizenship/alien eligibility policy were completed and reviewed while on site. Pursuant to on site discussion with the Executive Director and two (2) Managing Attorneys, the policy was revised to include the alien eligibility categories, enumerate those items that must be reviewed prior to rendering legal assistance, and indicate that non-LSC and LSC funds may be used to represent victims of domestic violence in cases related to the prevention or relief from the battery or extreme cruelty. The revised policy

was met with approval and is compliant with the requirements of 45 CFR Part 1626. The revised policy was scheduled to be reviewed and approved by the Board in April 2012.

In conjunction with the findings relating to 45 CFR Part 1626 that were discussed in Finding 2 *supra*, the DR required WTLS to ensure that all case files contain timely and properly executed written citizenship attestations, or verifications of alien eligibility, pursuant to 45 CFR Part 1626 and CSR Handbook (2008 Ed., as amended 2011), § 5.5, where appropriate.

In its response to the DR, WTLS indicated that this corrective action was addressed during the visit, followed by staff training on the revisions to the citizenship/alien eligibility policy and attestation/verification of eligibility. Pursuant to discussions with the Executive Director during the visit, staff was trained on the revisions to the citizenship/alien eligibility policy, as well as the revised attestations/verification forms, prior to conclusion of the visit, as well as during the week following the visit. After extensive review, both the concept of ongoing staff training and the revisions to the citizenship/alien eligibility policy and attestation/verification of eligibility were subsequently approved by WTLS' Board of Directors at the Board meeting that took place on April 23, 2012. Pursuant to the draft Board minutes, which were provided by the Executive Director on June 21, 2012, and are expected to be approved at the next Board meeting, WTLS adopted this corrective action and will continue to provide staff training and monitoring, as needed, to ensure full compliance.

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

Pursuant to 45 CFR § 1611.9, recipients are required to execute a retainer agreement with each client who receives extended legal services from the recipient. The retainer agreement must be in a form consistent with the applicable rules of professional responsibility and prevailing practices in the recipient's service area and shall include, at a minimum, a statement identifying the legal problem for which representation is sought, and the nature of the legal service to be provided. *See* 45 CFR § 1611.9(a).

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.<sup>7</sup> Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

Case files reviewed indicated that WTLS is in substantial compliance with the requirements of 45 CFR § 1611.9. There were a limited number of cases reviewed where the retainer agreement contained an inadequate scope and/or subject matter. *See* Case No. 1-11-0028071, which is a closed 2011 Jackson case. This case was closed under closing code "F," Negotiated Settlement Without Litigation, which is an extended service case that is required to have a retainer agreement. In this case, the retainer agreement in the case file stated that assistance would be provided based on the client's "rental needs." This description does not specifically identify the

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<sup>7</sup> However, a retainer is more than a regulatory requirement. It is also a key document clarifying the expectations and obligations of both client and program, thus assisting in a recipient's risk management.

action that the program intended to take on behalf of the client, with respect to representation of the client's case. *See also* Case No. 11-0026874, which is a closed 2011 Jackson case. This case was closed under closing code “F,” Negotiated Settlement Without Litigation, which is an extended service case that is required to have a retainer agreement. In this case, the retainer agreement in the case file did not specifically identify the action that the program intended to take on behalf of the client, with respect to representation of the client’s case.

Pursuant to the requirements of 45 CFR § 1611.9, the DR recommended that WTLS review all case files required to have a retainer agreement to verify that all agreements contain a detailed scope and subject matter of the representation.

In its response to the DR, WTLS indicated that all recommendations in the DR have been reviewed and will be considered as WTLS continues to strive to improve the delivery of its services. Additionally, WTLS stated that it believes “all issues raised in the DR have been implemented...”

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

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

The statement is not required in every case. It is required only when a recipient files a complaint in a court of law or otherwise initiates or participates in litigation against a defendant, or when a recipient engages in pre-complaint settlement negotiations with a prospective defendant. *See* 45 CFR § 1636.2(a).

Case files reviewed indicated that WTLS is in compliance with the requirements of 45 CFR Part 1636.

The WTLS policy provided for review in advance of the visit did not indicate that, pursuant to 45 CFR § 1636.4, uncompensated private attorneys were not subject to the requirements of 45 CFR Part 1636. It was recommended that the policy be revised to reflect that a statement of fact is not required when representation is through a volunteer or *pro bono* private attorney. Pursuant to on site discussions with the Executive Director and two (2) Managing Attorneys, the policy was revised as such and presented for approval during the visit. The revised policy was met with approval and is compliant with the requirements of 45 CFR Part 1636. The revised policy was scheduled to be reviewed and approved by the Board in April 2012.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

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

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

Prior to the visit, OCE was provided a list of WTLS' priorities. WTLS identifies the following types of cases as within their priorities: access to health/medical care, securing or retaining income/shelter, personal freedom and security rights, parental rights with state action, rights of persons who may be institutionalized or who are institutionalized, freedom from abuse, family issues regarding custody, educational rights, and consumer rights. Sampled case files reviewed evidenced that WTLS is in compliance with 45 CFR Part 1620.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

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

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

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

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

Case files reviewed indicated that WTLS is in compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

**Finding 10: Sampled cases evidenced that WTLS' application of the CSR case closure categories is consistent with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011). There were a limited number of cases with incorrect closing codes.**

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

The files reviewed demonstrated WTLS' application of the CSR case closing categories is generally consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011), in that that a minimal number of the sampled cases reviewed contained closing code errors. However, there were a limited number cases reviewed that contained incorrect closing codes.

*See* Case No. 10-0024175. This is a closed 2010 Jackson case that was closed utilizing closing code "K," Other. The case notes indicate that the attorney provided the client with advice regarding the adoption of a relative. As such, the applicable closing code for this case is "A," Counsel and Advice, as closing code "K" is reserved for cases that do not fit into any of the other closing code classifications. *See also* Case No. 08-0017862. This is a closed 2010 Dyersburg case that was closed utilizing closing code "B," Limited Action. The attorney represented the client in court for a custody matter. The case resulted in an order being granted by the court in the client's favor. The client's custody request was not contested. As such, the applicable closing code for this case is "I(a)," Court Decision: Uncontested. *See also* Case No. 10-0024919. This is a closed 2011 Dyersburg case that was closed utilizing closing code "I(a)," Court Decision: Uncontested. The attorney represented the client in a contested court case concerning indemnification of liability. Both sides were able to reach an agreement and a stipulated consent agreement and order that outlined the terms of the settlement was signed by both parties and entered into the court case. As such, the applicable closing code for this case is "G," Negotiated Settlement with Litigation. *See also* Case No. 09-0020787. This is a closed 2010 Dyersburg case that was closed utilizing closing code "B," Limited Action. The case notes indicated that the attorney assisted the client with reaching an agreement with the opposing party in a matter that had not been filed in any court. As such, closing code "F," Negotiated Settlement Without Litigation, is the more applicable closing code. *See also* Case No. 11-0027067. This is a closed 2011 Dyersburg case that was closed utilizing closing code "L," Extensive Service. The case notes indicated that the attorney represented the client in a contested domestic violence court action. As such, closing code "I(b)," Court Decision: Contested, is the more applicable closing code.

Additionally, as discussed earlier, WTLS previously utilized “K” as its de-select code to designate cases as having been de-selected, so that those cases would not be included in WTLS’ CSR data submission. As such, there were a limited number of cases reviewed that were closed under closing code “K,” Other, when they were intended to be de-selected and not included in WTLS’ CSR case reporting. *See* Case Nos. 1-11-0028974, 11-0025780, 1-11-0028334, 11-0026347, 1-11-0027990, 3-11-0028852, 11-0025923, 11-0026791, 11-0026638, 11-0027139, 11-0027279, and 1-11-0028489. As noted in Finding 1 *supra*, while on site, WTLS’ ACMS was modified to reflect that “X” was the proper code to utilize when de-selecting cases from WTLS’ CSR data submission. Additionally, during the visit, the Executive Director instructed WTLS staff to utilize LSC closing codes to close cases only when the level of service is consistent with the closing code selected.

Lastly, there was one (1) case reviewed that could have been closed under a higher closing code. Interviews with intermediaries indicated that domestic violence cases that are handled by paralegals are routinely closed under closing codes “A,” Advice and Counsel, or “B,” Limited Action, even when the level of service rises to that of an “L” case, Extensive Service. The selection of the lower closing code resulted from WTLS staff mistakenly interpreting the CSR Handbook to prohibit utilization of closing code “L” when the primary case handler was a paralegal.

*See* Case No. 4-11-0028274, which is a closed 2011 Selmer case that was opened September 26, 2011 and closed November 7, 2011, utilizing closing code “B,” Limited Action. This case involved extensive assistance by the paralegal to the client over a six-week period and reflected a total of 31 hours charged by the paralegal. All work done by the paralegal was directly overseen by a program attorney, as is appropriate for such positions. Additionally, prior to commencing work on the client’s case, the paralegal obtained a citizenship attestation retainer agreement. It was related that this case, and others like it, was closed as a “B” on the basis that the case handler was a paralegal and, as such, could not close a case using an extended service closing code. This was a reasonable decision by the program; however, for future domestic violence cases reflecting extensive service by a paralegal, closing code “L” should be consistently used, when all of the requirements for “L” cases that are enumerated in CSR Handbook (2008 Ed., as amended 2011), Chapter VIII are satisfied.

### *Proposed CSR Questions*

Case review with intermediaries revealed WTLS staff confusion regarding correct application of LSC closing codes in two (2) specific scenarios. The scenarios were as follows:

1. In certain cases, should the ultimate choice of closing code depend more upon the “last” legal action of the case, or should the “dominant” legal action taken in the case influence the choice of closing code?

The sample facts of a case where this type of determination is necessary are: A WTLS advocate handles a contested divorce and is able, through mediation and discussion, to negotiate a settlement of 19 out of 23 pending items involved with the divorce. Through



continued discovery, the court may decide a twentieth item. However, prior to the final court hearing (to resolve the three remaining issues), the opposing counsel notifies that they have withdrawn as counsel, and then on the date of trial, the opposing party does not appear in court.

The question posed by WTLS staff was whether the above fact pattern is best closed as a “G,” Negotiated Settlement With Litigation, “I(a),” Court Decision: Uncontested, or “I(b),” Court Decision: Contested.

2. The second scenario was related as such: In Tennessee, a Court of General Sessions exists to resolve certain types and levels of disputes. Importantly, this is not a court of record and there are no official rules. Parties are encouraged not to file anything with the court, although one can do so, and there is no formal discovery. WTLS staff routinely handles cases for clients in this court that proceed in the following manner.

A lawsuit is first filed against an individual defendant, who then seeks assistance from WTLS. The case type is “02,” Collection, and involves collection efforts against the defendant, with the plaintiff claiming that the defendant owes him or her money. Due to the general lack of unified structure in this court, the WTLS attorney will call the plaintiff’s counsel and request that supporting documentation for the debt be produced for review. The plaintiff’s attorney will then request a continuance from the court while they await the necessary documentation from their client. Requests for supporting documentation, and requests for continuances, will continue for several months, often up to six months. Ultimately, the plaintiff is rarely ever able to obtain supporting documentation for the debt and the judge will non-suit the case, at the plaintiff’s counsel request. WTLS advocates noted that this is extremely common, and that there are predatory parties that attempt to use the Court of General Sessions to collect debts that do not actually exist.

The CSR question posed by WTLS staff regarding the above-referenced scenario was whether this case qualifies for “I(b),” Court Decision: Contested reporting, as it is only through the contested process that the case is non-suited for lack of prosecution.

The above-mentioned questions were presented to LSC’s CSR Committee for interpretation and the following guidance was offered by the Chairperson of the CSR Committee:

With respect to Question No. 1, it is not the last action of the case that necessarily dictates the proper closing code, but rather the totality of the case should be considered. Normally, a case in which the opposing party does not show in court should be closed as an “I(a),” Court Decision: Uncontested. However, there can be an exception to this rule. If part of a case is resolved in a process that is contested, but the case is ultimately concluded with a “no show” by the other party, resulting in a court decision, the proper closing code is “I(b),” Court Decision: Contested. This is best demonstrated by the following example: 20 of 23 items regarding a divorce are settled by the parties in a negotiated settlement. For the court hearing addressing the remaining three items, the

other party does not show. This case, due to the 20 items settled through a contested process, should be closed as an “I(b),” Court Decision: Contested.

With respect to Question No. 2, it appears that this has to be a court case, since it was filed in a court. Closing code “G,” Settlement with Litigation, would be possible if there were an agreement between both parties that the plaintiff would non-suit the case but, absent such an agreement, the case should be closed as a court decision. It is a contested court decision case, since the adverse party filed it against the client and the program defended it. As such, the correct closing code, pursuant to the requirements of the 2008 CSR Handbook, as amended 2011, is closing code “I(b),” Court Decision: Contested.

The DR recommended that WTLS conduct staff training to ensure proper application of the CSR case closure categories, specifically with respect to utilization of closing codes “K,” Other and “L,” Extensive Service.

In its response to the DR, WTLS indicated that all recommendations in the DR have been reviewed and will be considered as WTLS continues to strive to improve the delivery of its services. Additionally, WTLS stated that it believes “all issues raised in the DR have been implemented...”

**Finding 11: Sampled cases evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Dormancy and untimely closure of cases).**

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice or limited action (CSR Categories A and B), should be reported as having been closed in the grant year in which the case was opened. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a).<sup>8</sup> There is, however, an exception for limited service cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a). All other cases (CSR Categories F through L, 2008 CSR Handbook, as amended 2011) should be reported as having been closed in the grant year in which the recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(b). Additionally LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3).

Sampled cases reviewed evidenced that WTLS is in compliance regarding the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3.

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<sup>8</sup> The time limitation of the 2001 Handbook that a brief service case should be closed “as a result of an action taken at or within a few days or weeks of intake” has been eliminated. However, cases closed as limited action are subject to the time limitation on case closure found in CSR Handbook (2008 Ed., as amended 2011), § 3.3(a) this category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions with other parties. More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Closure Category L (Extensive Service).

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

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

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

When a recipient provides more than one (1) type of assistance to the same client during the same reporting period, in an effort to resolve essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient may report only the highest level of legal assistance provided. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.2.

When a recipient provides assistance more than once within the same reporting period to the same client who has returned with essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient is instructed to report the repeated instances of assistance as a single case. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.3. Recipients are further instructed that related legal problems presented by the same client are to be reported as a single case. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.4.

Sampled cases evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.2.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

**Finding 13: Review of WTLS' policies, the list of attorneys who have engaged in the outside practice of law, staff interviews, interviews with the Executive Director, three (3) Managing Attorneys, and all of the attorneys who have engaged in the outside practice of law during the review period revealed that WTLS is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law).**

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

Based on interviews with the Executive Director and three (3) Managing Attorneys, staff interviews, interviews with all of the attorneys on the list provided by WTLS who have engaged in outside practice of law, and review of the recipient's policies, WTLS is in compliance with the requirements of 45 CFR Part 1604.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

**Finding 14: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).**

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

A limited review of various accounting files and supporting documentation for the period of January 1, 2009 through December 31, 2011, as well as interviews with WTLS fiscal management and staff, revealed that WTLS does not appear to have expended any grant funds, or used personnel or equipment in prohibited political activities in violation of 45 CFR §§1608.3(b) and 1608.4(b) and, therefore, is in compliance.

A comprehensive review of WTLS' pamphlets, brochures, flyers, etc. was conducted during the on site visit. Review of the above-referenced materials revealed that all collected information was found to be free of any prohibited political message, expression, symbol, image, or allusion, and in compliance with 45 CFR Part 1608.

Sampled files reviewed, interviews with the Executive Director, three (3) Managing Attorneys, and two (2) staff attorneys, and review of the recipient's policies indicated that WTLS is not involved in such activity.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

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

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

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

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

The WTLS policy provided for review in advance of the visit for review did not include a provision defining what constitutes a fee-generating case, or list all of the requirements that must be satisfied prior to accepting a fee-generating case. Pursuant to the requirements of 45 CFR §§ 1609.2 and 1609.3, and on site discussions with the Executive Director and two (2) Managing Attorneys, the policy was revised to include a definition of a fee-generating case and the actions that must be taken prior to acceptance of a fee-generating case. The revised policy was met with approval and is compliant with the requirements of 45 CFR Part 1609. The revised policy was scheduled to be reviewed and approved by the Board in April 2012.

Sampled files reviewed, interviews with the Executive Director, three (3) Managing Attorneys, and two (2) staff attorneys, and review of the recipient's policies evidenced compliance with the requirements of 45 CFR Part 1609.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

**Finding 16: A limited review of WTLS' accounting and financial records, observations of the physical locations of program field offices, and interviews with staff indicated compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity) in reference to sharing physical space with a non-LSC entity engaged in restricted activities.**

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

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

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

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

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

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

Recipients are further instructed to exercise caution in sharing space, equipment and facilities with organizations that engage in restricted activities. Particularly if the recipient and the other organization employ any of the same personnel or use any of the same facilities that are accessible to clients or the public. But, as noted previously, standing alone, being housed in the same building, sharing a library or other common space inaccessible to clients or the public may be permissible as long as there is appropriate signage, separate entrances, and other forms of identification distinguishing the recipient from the other organization, and no LSC funds subsidize restricted activity. Organizational names, building signs, telephone numbers, and other forms of identification should clearly distinguish the recipient from any organization that engages in restricted activities. *See* OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

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

A limited review of WTLS' accounting and financial records, observations of the physical locations of program field offices, and interviews with staff indicated compliance with 45 CFR

Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity), with respect to sharing physical space with a non-LSC entity engaged in restricted activities.

From a limited review of the chart of accounts and detailed general ledger (G/L) for specific G/L accounts for January 2009 through December 2011, observations of the physical locations of all offices by team members, and interviews with staff, WTLS does not appear to be engaged in any restricted activity which would present 45 CFR Part 1610 compliance issues. WTLS does not have contracts with other organizations to provide personnel, accounting, information technology, or other support services that would require compliance with the LSC 45 CFR Part 1610.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

**Finding 17: WTLS is in substantial compliance with 45 CFR § 1614.3(d)(3), which requires oversight and follow-up of the PAI cases. Additionally, WTLS is in compliance with 45 CFR Part 1614, which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients.**

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

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

Recipients are required to develop a PAI Plan and budget. *See* 45 CFR § 1614.4(a). The annual plan shall take into consideration the legal needs of eligible clients in the geographical area, the delivery mechanisms potentially available to provide the opportunity for private attorneys to meet legal needs, and the results of consultation with significant segments of the client community, private attorneys and bar associations, including minority and women's bar associations. The recipient must document that its proposed annual Plan has been presented to

all local bar associations and the Plan shall summarize their response. See 45 CFR §§ 1614.4(a) and (b).

WTLS is in substantial compliance with 45 CFR § 1614.3(d)(3), which requires oversight and follow-up of the PAI cases, and is in compliance 45 CFR Part 1614, which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. Review of WTLS fiscal records revealed that WTLS' PAI costs consist mostly of staff PAI time and allocated, non-personnel costs based on an allocation percentage of casehandlers' PAI time to total casehandlers' time. As outlined in its accounting manual, WTLS requires its casehandlers to document their PAI time worked within the timekeeping component of WTLS' ACMS. While on site, WTLS provided the review team copies of its PAI cost allocation worksheets for 2011, along with sample PAI time records, for review.

Review of WTLS' applicable accounting records, its PAI cost allocation schedules and methodology statement, and its 2010 audited financial statements revealed that WTLS utilizes a financial management system that fully complies with LSC's PAI accounting and financial reporting requirements outlined in 45 CFR § 1614.3(e). Specifically, WTLS accurately identifies and accounts for its PAI costs; bases its PAI cost allocations on documented, reasonable operating data; properly allocates documented staff time, supported with time records, to PAI, and properly reports its PAI revenue and expenses in its year-end audit reports.

WTLS' PAI component consists of a network of individual volunteer attorneys. The majority of WTLS' PAI cases primarily deal with family law, estates and probate, and conservatorships. There is one (1) PAI coordinator, an attorney located in the Jackson office, who handles all of the geographic regions served by WTLS. The PAI coordinator also handles oversight for all of WTLS' PAI cases. The Managing Attorney of the Jackson office supervises the PAI coordinator.

*Intake Process:* The intake process for a PAI case is identical to the intake process for a staff case, which was discussed herein in Finding 2 *supra*. Once a case is referred to the PAI department, it is assigned to the PAI coordinator who reviews the intake for accuracy, to ensure that all of the critical fields are complete (income, assets, citizenship screening), and to ensure that there is sufficient information concerning the applicant, the adverse party, and the nature of the case. The PAI coordinator will then contact the applicant and conduct an interview to determine suitability for referral to a private attorney.

*Referral Process:* If the applicant is accepted for referral to a private attorney for services, cases are placed by the coordinator via telephone calls and email. Cases usually can be placed by the coordinator within three to five calls to *pro bono* attorneys. For extended service cases that are within WTLS' priorities and cannot be placed within five (5) contact attempts to private attorneys, continuous attempts are made to refer the case to a participating private attorney, based on the attorney's reported interest in specific types of cases. Once the coordinator confirms that an attorney is available, the coordinator sends a referral packet to the attorney, which includes a case closure form, client documents, and a completed intake sheet. If, despite repeated attempts, a case is unable to be placed with a private attorney, the coordinator will



contact the applicant to let them know that their case cannot be placed, and refer the applicant to an appropriate agency, when applicable.

Once their case has been accepted by a participating private attorney, the client is sent an introduction letter explaining the process and the *pro bono* arrangement, as well as a manual intake form, which contains a citizenship attestation, if they were not screened in person. The PAI coordinator then calls the client and instructs the client to contact the attorney. If the client does not contact the private attorney and ceases communication with the coordinator, the coordinator will review the case closure form provided by the private attorney to determine if any assistance was provided. The case will be de-selected if no assistance was provided. If assistance was provided, the case will be closed as a staff or PAI case, depending upon which case handler provided the legal assistance. If the private attorney fails to remain in contact with the client, every effort will be made to secure another private attorney for the client.

*Oversight:* Once a case has been placed within the PAI component, the case is routinely monitored for status updates. When requesting status updates, the PAI coordinator telephones and emails the attorney and/or the attorney's assistant to obtain the status of the case. The PAI coordinator may also contact the client to determine the status of the case. The coordinator interviewed indicated that if she is unable to determine the status of the case, the case will be closed based upon the information in the file. Once the coordinator has determined that a case should be closed, either due to inactivity lasting longer than 90-120 days, or resolution of the client's case, the case closure form that was previously sent to the private attorney is requested to be returned. However, this form often does not elicit from the private attorney sufficient information concerning the legal assistance provided; as a result, this information is obtained directly from the private attorney by telephone call or email message.

Once the final closing information is obtained, the PAI coordinator will enter the case information into the ACMS, review and ready the case for closing, assign a closing code, prepare a closing letter for the client, and close the case in the ACMS. The PAI files are reviewed by the Managing Attorney at the end of the year for accuracy.

There were a limited number of reviewed PAI cases where the citizenship attestation was signed, but not dated. *See* Case Nos. 09-0019189, 11-0026698, 11-0026806, 08-0018382, 08-0018185, 3-11-0027879, 3-11-0027854, 3-11-0028265, and 11-0026340. In these cases, the case notes indicated that there was in person contact between the client and a WTLS PAI attorney. All of the above-referenced case files contained signed, undated citizenship attestations.

The DR recommended that WTLS obtain and review an executed citizenship attestation or alien eligibility form from each applicant prior to referral to a *pro bono* attorney, in order to minimize instances of unsigned and/or undated citizenship attestations.

In its response to the DR, WTLS indicated that all recommendations in the DR have been reviewed and will be considered as WTLS continues to strive to improve the delivery of its services. Additionally, WTLS stated that it believes "all issues raised in the DR have been implemented..."

**Finding 18: WTLS is in compliance with 45 CFR § 1627.4(a), which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization.**

LSC has developed rules governing the transfer of LSC funds by recipients to other organizations. *See* 45 CFR § 1627.1. These rules govern subgrants, which are defined as any transfer of LSC funds from a recipient to an entity under a grant, contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient's programmatic activities.<sup>9</sup> Except that the definition does not include transfers related to contracts for services rendered directly to the recipient, *e.g.*, accounting services, general counsel, management consultants, computer services, etc., or contracts with private attorneys and law firms involving \$25,000.00 or less for the direct provision of legal assistance to eligible clients. *See* 45 CFR §§ 1627.2(b)(1) and (b)(2).

All subgrants must be in writing and must be approved by LSC. In requesting approval, recipients are required to disclose the terms and conditions of the subgrant and the amount of funds to be transferred. Additionally, LSC approval is required for a substantial change in the work program of a subgrant, or an increase or decrease in funding of more than 10%. Minor changes of work program, or changes in funding less than 10% do not require LSC approval, but LSC must be notified in writing. *See* 45 CFR §§ 1627.3(a)(1) and (b)(3).

Subgrants may not be for a period longer than one year, and all funds remaining at the end of the grant period are considered part of the recipient's fund balance. All subgrants must provide for their orderly termination or suspension, and must provide for the same oversight rights for LSC with respect to subrecipients as apply to recipients. Recipients are responsible for ensuring that subrecipients comply with LSC's financial and audit requirements. It is also the responsibility of the recipient to ensure the proper expenditure of, accounting for, and audit of the transferred funds. *See* 45 CFR §§ 1627.3(b)(1), (b)(2), (c), and (e).

LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, except that payment of membership fees or dues mandated by a governmental organization to engage in a profession is permitted. *See* 45 CFR § 1627.4. Nor may recipients may make contributions or gifts of LSC funds. *See* 45 CFR § 1627.5. Recipients must have written policies and procedures to guide staff in complying with 45 CFR Part 1627 and shall maintain records sufficient to document the recipient's compliance with 45 CFR Part 1627. *See* 45 CFR § 1627.8.

Interviews with the Controller and one (1) of WTLS' bookkeepers indicated that non-mandatory membership fees or dues are paid with non-LSC funds. This verbal assurance was corroborated with supporting documentation. With regard to subgrants, WTLS has no subgrant relationships using LSC funds. The review of accounting records did not reveal any subgrants.

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<sup>9</sup> Programmatic activities includes those that might otherwise be expected to be conducted directly by the recipient, such as representation of eligible clients, or which provides direct support to a recipient's legal assistance activities or such activities as client involvement, training or state support activities. Such activities would not normally include those that are covered by a fee-for-service arrangement, such as those provided by a private law firm or attorney representing a recipient's clients on a contract or *judicare* basis, except that any such arrangement involving more than \$25,000.00 is included.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

**Finding 19: WTLS is in compliance with 45 CFR Part 1635 (Timekeeping requirement).**

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

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

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

WTLS is in compliance with 45 CFR § 1635.3(d). It is not required to maintain a file of corresponding Quarterly Certifications for Part-time Case Handlers, since such part-time case handlers do not work for organizations that engage in restricted activities, as identified in 45 CFR § 1635.3(d).

Review of WTLS' timekeeping records revealed that, in accordance with its operating policy, WTLS requires its casehandlers to create contemporaneous time records that account for time expended by date, client identifier, and subject matter in increments not greater than one-quarter (1/4) of one (1) hour. For matters and supporting activity, time records must include information that identifies the category of action(s) on which the time was spent.

A payroll report for a single, two-week payroll period detailing time spent by all WTLS advocates in November 2011 was selected for review. Review of the payroll report revealed that

each record of time spent for a case contained a client name and/or case number and, for matters or supporting activities, an identification of the category of action on which the time was spent was noted. In addition, WTLS' manual and computerized timekeeping forms have the ability to capture all of the efforts of attorneys and paralegals for which compensation is paid. The sampled advocate time records reviewed revealed that all recorded casehandlers' daily time equaled or exceeded seven and one-half (7.5) hours per day. Lastly, WTLS' ACMS has the ability to aggregate time record information on both closed and pending cases by legal problem type.

A review was conducted of 15 actual case files against their corresponding timekeeping records to determine the accuracy of the time reported as compared to the amount of work performed as disclosed in the case file. The review disclosed that both records compared favorably.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

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

Prior to December 16, 2009, except as otherwise provided by LSC regulations, recipients could not claim, or collect and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* 45 CFR § 1642.3.<sup>10</sup> However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was lifted. Thereafter, at its January 30, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees. Accordingly, effective March 15, 2010 recipients may claim, collect and retain attorneys' fees for work performed, regardless of when such work was performed. Enforcement action will not be taken against any recipient that filed a claim for, or collected or retained attorneys' fees during the period December 16, 2009 and March 15, 2010. Claims for, collection of, or retention of attorneys' fees prior to December 16, 2009 may, however, result in enforcement action. *See* LSC Program Letter10-1 (February 18, 2010).<sup>11</sup>

A limited review of WTLS' fiscal records, the 2009 and 2010 Audited Financial Statements (AFS), and interviews with the Controller, evidenced that there were no attorneys' fees awarded, collected, and retained for cases serviced directly by WTLS that would violate 45 CFR Part 1642.

The sampled files reviewed did not contain a prayer for attorneys' fees, as such WTLS is in compliance with the requirements of 45 CFR Part 1642. Sampled files reviewed, interviews with

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<sup>10</sup> The regulations define "attorneys' fees" as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client's retroactive statutory benefits. *See* 45 CFR § 1642.2(a).

<sup>11</sup> Recipients are reminded that the regulatory provisions regarding fee-generating cases, accounting for and use of attorneys' fees, and acceptance of reimbursement remain in force and violation of these requirements, regardless of when they occur, may subject the recipient to compliance and enforcement action.

the Executive Director, three (3) Managing Attorneys, and two (2) staff attorneys, and review of the recipient's policies, further collaborated this finding.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

**Finding 21: Sampled cases reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). Policies reviewed evidenced compliance with the requirements of 45 CFR Part 1612.**

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

The WTLS policy on legislative and administrative advocacy that was provided for review in advance of the on site visit did not provide all of the permissible activities that could be undertaken without violating 45 CFR Part 1612. Additionally, the policy did not address the prohibition against public demonstrations or supporting certain types of political training. Lastly, the policy did not indicate that non-LSC funds could be used to respond to a request from a governmental agency or its staff. While on site, it was recommended that the policy be revised to include all permissible activities, as identified in 45 CFR § 1612.5; to address the prohibition regarding public demonstrations and political training; and to indicate that non-LSC funds could be used to respond to a written request from a governmental agency or official thereof, elected official, legislative body, committee, or member thereof. Pursuant to on site discussions with the Executive Director and two (2) Managing Attorneys, revisions to the policy were made and submitted to the review team prior to conclusion of the visit. The revised policy was met with approval and is in compliance with the requirements of 45 CFR Part 1612. The revised policy was scheduled to be reviewed and approved by the Board in April 2012.

None of the sampled files and documents reviewed, including the program's legislative activity reports, evidenced any lobbying or other prohibited activities. Sampled files reviewed, interviews with the Executive Director, three (3) Managing Attorneys, and two (2) staff attorneys, and review of the recipient's policies and fiscal records, further collaborated this finding.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

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

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

None of the sampled files reviewed involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction. Sampled files reviewed, interviews with the Executive Director, three (3) Managing Attorneys, and two (2) staff attorneys, and review of the recipient's policies, also confirmed that WTLS is not involved in this prohibited activity.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

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

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define "class action" as a lawsuit filed as, or otherwise declared by a court of competent jurisdiction, as a class action pursuant Federal Rules of Civil Procedure, Rule 23, or comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations define "initiating or participating in any class action" as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).<sup>12</sup>

The WTLS policy that was provided for review in advance of the visit did not indicate that it is permissible to provide legal assistance to an individual who is seeking to withdraw from, or opt out of, a class in a class action matter. While on site, it was recommended that the policy be revised to reflect the above-referenced provisions. Pursuant to on site discussions with the Executive Director and two (2) Managing Attorneys, the policy was revised to reflect the permissible activities, pursuant to 45 CFR § 1617.2(b)(2). The revised policy was met with approval and is in compliance with the requirements of 45 CFR Part 1617. The revised policy is scheduled to be reviewed and approved by the Board in April 2012.

None of the sampled files reviewed involved initiation or participation in a class action. Sampled files reviewed, interviews with the Executive Director, three (3) Managing Attorneys, and two

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<sup>12</sup> It does not, however, include representation of an individual seeking to withdraw or opt out of the class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate, or advise others about the terms of an order granting relief. *See* 45 CFR § 1617.2(b)(2).

(2) staff attorneys, and review of the recipient's policies and fiscal records, also confirmed that WTLS is not involved in this prohibited activity.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

**Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting). Policies reviewed evidenced compliance with the requirements of 45 CFR Part 1632.**

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

The WTLS policy that was provided for review in advance of the visit did not contain a definition of pertinent terms or list all of the impermissible and permissible activities under the regulation, pursuant to 45 CFR §§ 1632.2 and 1632.3 . While on site, it was recommended that the policy be revised to reflect the above-referenced provisions. Pursuant to on site discussions with the Executive Director and two (2) Managing Attorneys, the policy was revised to reflect the recommended changes. The revised policy was met with approval and is in compliance with the requirements of 45 CFR Part 1632. The revised policy is scheduled to be reviewed and approved by the Board in April 2012.

None of the sampled files reviewed revealed participation in litigation related to redistricting. Sampled files reviewed, interviews with the Executive Director, three (3) Managing Attorneys, and two (2) staff attorneys, and review of the recipient's policies and fiscal records, also confirmed that WTLS is not involved in this prohibited activity.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

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

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

The WTLS policy that was provided for review in advance of the visit did not indicate that it is impermissible to represent any individual that has been charged with, or convicted of, possession with the intent to distribute a controlled substance, pursuant to 45 CFR § 1633.3(a). While on site, the review team advised WTLS that the policy should be revised to reflect that prohibition. Pursuant to on site discussions with the Executive Director and two (2) Managing Attorneys, the policy was revised to reflect the necessary changes. The revised policy was met with approval and is in compliance with the requirements of 45 CFR Part 1633. The revised policy was scheduled to be reviewed and approved by the Board in April 2012.

None of the sampled files reviewed involved defense of any such eviction proceeding. Sampled files reviewed, interviews with the Executive Director, three (3) Managing Attorneys, and two (2) staff attorneys, and review of the recipient's policies, also confirmed that WTLS is not involved in this prohibited activity.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

**Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners). Policies reviewed evidenced compliance with 45 CFR Part 1637.**

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

The WTLS policy that was provided for review in advance of the visit did not contain a definition of pertinent terms, or list all of the prohibitions enumerated in 45 CFR § 1637.3. While on site, WTLS was advised that the policy should be revised to include the above-referenced provisions. Pursuant to on site discussions with the Executive Director and two (2) Managing Attorneys, the policy was revised to reflect the necessary changes. The revised policy was met with approval and is in compliance with the requirements of 45 CFR Part 1637. The revised policy was scheduled to be reviewed and approved by the Board in April 2012.

None of the sampled files reviewed involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person. Sampled files reviewed, interviews with the Executive Director, three (3) Managing Attorneys, and two (2) staff attorneys, and review of the recipient's policies, further collaborated this finding.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.



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

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC recipients and their staff from engaging a client which it solicited.<sup>13</sup> This restriction has been contained in all subsequent appropriations acts.<sup>14</sup> This restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1: "This part is designed to ensure that recipients and their employees do not solicit clients."

None of the sampled files, including documentation, such as community education materials and program literature, indicated program involvement in such activity. Sampled files reviewed, interviews with the Executive Director, three (3) Managing Attorneys, and two (2) staff attorneys, and review of the recipient's policies and fiscal records, also confirmed that WTLS is not involved in this prohibited activity.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

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

No LSC funds may be used to compel any person, institution or governmental entity to provide or fund any item, benefit, program, or service for the purpose of causing the suicide, euthanasia, or mercy killing of any individual. No may LSC funds be used to bring suit to assert, or advocate, a legal right to suicide, euthanasia, or mercy killing, or advocate, or any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

None of the sampled files reviewed involved such activity. Sampled files reviewed, interviews with the Executive Director, three (3) Managing Attorneys, and two (2) staff attorneys, and review of the recipient's policies also confirmed that WTLS is not involved in this prohibited activity.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

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<sup>13</sup> *See* Section 504(a)(18).

<sup>14</sup> *See* Pub. L. 108-7, 117 Stat. 11 (2003) (FY 2003), Pub. L. 108-199, 118 Stat. 3 (2004) (FY 2004), Pub. L. 108-447, 118 Stat. 2809 (2005) (FY 2005), and Pub. L. 109-108, 119 Stat. 2290 (2006) (FY 2006).

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

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

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

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

All of the sampled files reviewed demonstrated compliance with the above LSC statutory prohibitions. Sampled files reviewed, interviews with the Executive Director, three (3) Managing Attorneys, and two (2) staff attorneys, and review of the recipient's policies further evidenced and confirmed that WTLS was not engaged in any litigation which would be in violation of Section 1007(b) (8) of the LSC Act, Section 1007(b) (9) of the LSC Act, or Section 1007(b) (10) of the LSC Act.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

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

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

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

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

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

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

The WTLS policy on case disclosure that was provided for review in advance of the visit did not include the requirement to provide the above-listed items when presented with a valid request for disclosure. Additionally, the policy did not list all of the information required by 45 CFR § 1644.4, state all of the instances when case disclosure is mandated, pursuant to 45 CFR § 1644.3, or identify the method used to make the information available to the public, in accordance with 45 CFR § 1644.4(c). While on site, WTLS was advised that the above-referenced provisions should be included in the policy. Pursuant to on site discussions with the Executive Director and two (2) Managing Attorneys, the policy was revised to reflect the necessary changes. The revised policy was met with approval and is in compliance with the requirements of 45 CFR Part 1644. The revised policy was scheduled to be reviewed and approved by the Board in April 2012.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

**Finding 32: Policies reviewed evidenced compliance with the requirements of 45 CFR Part 1639 (Restrictions on welfare reform).**

Except as provided in 45 CFR §§ 1639.4 and 1639.5, recipients may not initiate legal representation, or participate in any other way in litigation, lobbying or rulemaking, involving an effort to reform a Federal or State welfare system. 45 CFR § 1639.6 requires recipients to adopt written policies and procedures to guide its staff in complying with 45 CFR Part 1639.

The WTLS policy on welfare reform that was provided for review in advance of the visit did not indicate that it is impermissible to lobby or engage in any form of advocacy before legislative or administrative bodies through grassroots efforts involving pending or proposed legislation in an effort to reform a Federal or State welfare system, pursuant to 45 CFR § 1639.3(c). While on site, WTLS was advised that the above-referenced provisions should be included in the policy. Pursuant to on site discussions with the Executive Director and two (2) Managing Attorneys, the policy was revised to reflect the necessary changes. The revised policy was met with approval and is in compliance with the requirements of 45 CFR Part 1639. The revised policy was scheduled to be reviewed and approved by the Board in April 2012.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

**Finding 33: A limited review of WTLS' internal control policies and procedures demonstrated that the program's policies and procedures compare favorably to Chapter 3- the Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of LSC's Accounting Guide for LSC Recipients (2010 Edition) and LSC Program Letter 10-2.**

In accepting LSC funds, recipients agree to administer these funds in accordance with requirements of the Legal Services Corporation Act of 1974 as amended (Act), any applicable appropriations acts and any other applicable law, rules, regulations, policies, guidelines, instructions, and other directives of the LSC, including, but not limited to, LSC Audit Guide for Recipients and Auditors, Accounting Guide For LSC Recipients (2010 Ed.), the CSR Handbook, the LSC Property Acquisition and Management Manual, and any amendments to the foregoing. Applicants agree to comply with both substantive and procedural requirements, including recordkeeping and reporting requirements.

An LSC recipient, under the direction of its board of directors, is required to establish and maintain adequate accounting records and internal control procedures. Internal control is defined

as a process effected by an entity's governing body, management and other personnel, designed to provide reasonable assurances regarding the achievement of objectives in the following categories: (1) Effectiveness and efficiency of operations; (2) Reliability of financial reporting; and (3) Compliance with applicable laws and regulations. *See* Chapter 3 of the Accounting Guide for LSC Recipients (2010 Ed.).

The Accounting Guide for LSC Recipients provides guidance on all aspects of fiscal operations and the 2010 edition has a significantly revised Accounting Procedures and Internal Control Checklist that provides guidance to programs on how accounting procedures and internal control can be strengthened and improved with the goal of eliminating, or at least reducing as much as reasonably possible, opportunities for fraudulent activities to occur.

With regards to the non-regulatory areas reviewed and the assessment and evaluation of WTLS' internal controls, LSC's Fundamental Criteria of an Accounting and Financial Reporting System (Fundamental Criteria) and the Accounting Procedures and Internal Control Checklist (*See* the Accounting Guide for LSC Recipients (2010 Ed.), Chapter 3 and Appendix VII, respectively) were used to conduct the review and obtain appropriate evidence to provide a reasonable basis for the findings and conclusions on the Fundamental Criteria review objectives. The review revealed that WTLS uses DataPro accounting software and Microsoft's Excel spreadsheet program to account for its LSC and non-LSC grant activities, and to produce a cumulative G/L, accounting records, and other financial reports and schedules. WTLS' Controller and accountant maintain the program's accounting system and produce management reports, accounting records, and supporting documentation for the Executive Director's and Board of Directors' oversight and approval, when necessary. WTLS employs competent personnel to properly document, record, account for, and report financial transactions.

WTLS has established its financial planning and controls in its accounting manual, which contains its financial philosophy and management controls. The introduction/overview of WTLS' accounting manual states, in part, that the manual was prepared in compliance with the LSC Accounting Guide for Recipients, in order to comply with LSC regulations; all WTLS employees are bound by the policies outlined in WTLS' accounting manual and any deviation from the established policy is prohibited; the stated procedures are management guidelines for implementation of the policies intended to be Board policy; and that the manual is intended to guide all aspects of WTLS fiscal operations.

Review of WTLS' accounting procedures and fiscal records revealed that the program compares favorably with its management reports and cost allocations. WTLS' management reports lists actual budget expenses, displays variances for both over and under budget for each expense item, and provides WTLS management and its Board of Directors with fiscal information by cost center, funding source, and total program involvement. For cost allocations, WTLS uses a Department of Health and Human Services approved indirect cost allocation rate to allocate its indirect costs among its LSC and non-LSC funding sources. This policy and procedure is clearly defined in WTLS' cost allocation methodology statement and accounting manual.

For transaction control, the above-reverenced DataPro accounting software is utilized. Review of WTLS' G/L and the procedures for documenting variations indicated that the G/L is posted on

a timely basis, its design accommodates fund and cost-center accounting, and its chart of accounts adequately provides detail sufficient to easily generate needed financial management information.

For contract services, as outlined in its accounting manual, WTLS has policies and procedures in effect to provide for formal program approval to ensure that all necessary funding source approvals are obtained prior to WTLS entering into contracts or obtaining solicitation of proposals or bids prior to awarding a service contract. These policies and procedures ensure that all contracts clearly define, in writing, the services that are to be rendered. Based upon discussions with WTLS management, WTLS does not currently have any active service contracts.

Review of accounting records and discussions with WTLS fiscal management indicated that the program complies with the Fundamental Criteria, with regards to its property. As indicated in its accounting manual and confirmed by reviewed documentation and observation, WTLS' subsidiary property records contain the necessary information. Additionally, WTLS assigns a unique identification number to all of its fixed assets, conducts a physical inventory every other year by comparing its property checklists to fixed asset records, and implements and follows formal approval procedures similar to its contract services procedures. The review revealed that WTLS conducted its last physical inventory on August 26 - 27, 2010 and is in the process of scheduling one for 2012.

Review of WTLS' payroll records and procedures revealed no exceptions with respect to the program's policies and procedures in comparison to the Fundamental Criteria. Pursuant to a review of WTLS' accounting records and discussions with WTLS fiscal management, the program uses its ACMS to capture attendance information for each employee. The captured payroll information accounts for total employee compensation and WTLS supervisors approve each employee's payroll time. The program processes its bimonthly payroll and disburses payroll from an imprest bank account that is utilized only for the purpose of payroll disbursement.

While on site, WTLS was asked to have an Internal Control Worksheet completed by a member of its fiscal staff. The Internal Control Worksheet was completed by WTLS' accounting assistant and reviewed by WTLS' Controller. The completed Internal Control Worksheet revealed a well thought-out process for the administration of internal controls across all aspects of the WTLS organization. Additionally, bank account reconciliations for WTLS' bank accounts were reviewed during the visit. The review revealed that all reconciliations were performed timely and accurately.

Review of sampled expense reports disclosed that proper expense forms were completed and all documentation was in accordance with effective accounting controls. All expense reports reviewed were dated and signed by the employee submitting them. Additionally, the expenses were documented and supported by adequate receipts. The approval of the sampled expense reports was indicated by the approver affixing his/her signature and the date to the expense report form. Review of the sampled reports evidenced that the Controller reviewed the expense reports for accuracy and correct documentation and indicated approval by initialing the form.

Additionally the expense reports were stamped paid and dated. All procedures are in accordance with sound internal accounting controls.

A sample consisting of the October 2011 bank reconciliations for the operating bank account, payroll bank account, cash management, trust bank account, and emergency fund bank account were reviewed during the on site visit. The review disclosed that the reconciliations were performed and documented in accordance with WTLS policies and procedures and with adequate internal controls. Additionally, the bank reconciliations were completed timely and performed within the requirements of WTLS' accounting policies and procedures and with sound internal control procedures. All bank account statements were reconciled to the G/L account balances and there were no outstanding checks over six (6) months old (all outstanding checks over six (6) months old are to be investigated per WTLS' accounting procedures). The review indicated that the Controller prepares the bank account reconciliations, which are then reviewed by the accounting assistant who signs and dates the reconciliations, along with the Controller. Additionally, the Executive Director signs and dates the bank account reconciliations to indicate his review and approval.

A sample of employee travel advances that were issued in the month of January 2012 was also selected for review. The review disclosed that the travel advances were issued in accordance with WTLS' policies and procedures and the issuance of the travel advances has adequate accounting internal controls. The employee is required to document the anticipated travel expenses on a pre-printed form. This form is reviewed by the Controller for reasonableness, accuracy, and proper distribution, after which the Controller initials the form to indicate approval and it is approved by the Executive Director. The form is then dated and stamped paid with a rubber stamp, and the check number for the disbursement is written on the form.

Finally, samples of the following credit card statements, for the month of January 2012, were reviewed for compliance with WTLS' accounting policies, procedures, and adequate internal controls: Mobil Gasoline, Office Depot, FedEx Office, Lowe's, and Wal-Mart. The review revealed that the credit card statements had the actual receipts attached to support each individual charge listed. The statements were reviewed and approved by the Controller, and then reviewed and approved by the Executive Director, with each affixing their initials to the statements to indicate their review and approval. Additionally, review of the charges found them to be prudent and necessary business expenses.

There are no recommendations or corrective actions required.

In its response to the DR, WTLS did not offer any comment on this Finding.

## IV. RECOMMENDATIONS<sup>15</sup>

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

1. Pursuant to the requirements of 45 CFR Part 1626, it is recommended that intake staff be provided periodic training regarding timely screening applicants for citizenship or alien eligibility and ensuring proper execution of citizenship attestations prior to providing applicants with legal assistance or access to an office or telephone to call the Hotline and apply for services. This action will ensure that the corrective action required in Finding 5 *infra* will be accomplished.

In its response to the DR, WTLS indicated that all recommendations in the DR have been reviewed and will be considered as WTLS continues to strive to improve the delivery of its services. Additionally, WTLS stated that it believes “all issues raised in the DR have been implemented...”

2. It is recommended that a periodic review be conducted of the cases closed in the WTLS office that does not primarily handle LSC-eligible cases to ensure that WTLS is including that office’s LSC-eligible cases in its CSR data submission, when appropriate.

In its response to the DR, WTLS indicated that all recommendations in the DR have been reviewed and will be considered as WTLS continues to strive to improve the delivery of its services. Additionally, WTLS stated that it believes “all issues raised in the DR have been implemented...”

3. Pursuant to the requirements of 45 CFR § 1611.9, it is recommended that WTLS review all case files required to have a retainer agreement to verify that all agreements contain a detailed scope and subject matter of the representation.

In its response to the DR, WTLS indicated that all recommendations in the DR have been reviewed and will be considered as WTLS continues to strive to improve the delivery of its services. Additionally, WTLS stated that it believes “all issues raised in the DR have been implemented...”

4. It is recommended that WTLS conduct staff training to ensure proper application of the CSR case closure categories, specifically with respect to utilization of closing codes “K,” Other and “L,” Extensive Service.

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<sup>15</sup> Items appearing in the “Recommendations” section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE’s experience, could help the program with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors.

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



In its response to the DR, WTLS indicated that all recommendations in the DR have been reviewed and will be considered as WTLS continues to strive to improve the delivery of its services. Additionally, WTLS stated that it believes “all issues raised in the DR have been implemented...”

5. It is recommended that WTLS obtain and review an executed citizenship attestation or alien eligibility form from each applicant prior to referral to a *pro bono* attorney, in order to minimize instances of unsigned and/or undated citizenship attestations.

In its response to the DR, WTLS indicated that all recommendations in the DR have been reviewed and will be considered as WTLS continues to strive to improve the delivery of its services. Additionally, WTLS stated that it believes “all issues raised in the DR have been implemented...”

## V. REQUIRED CORRECTIVE ACTIONS

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

1. WTLS must take steps to ensure consistent application, program-wide, of its newly revised financial eligibility policy to ensure that the requirements of 45 CFR Part 1611 are met, specifically with respect to recordation of actual, numerical asset values in both the manual intake form and ACMS, as well as a comprehensive review of reasonable income prospects for all applicants.

In its response to the DR, WTLS indicated that this corrective action was addressed during the visit with staff training on the revisions to the financial eligibility policy. Pursuant to discussions with the Executive Director throughout the duration of the visit, staff was trained on the revisions to the financial eligibility policy during the visit so that questions regarding implementation could be addressed prior to conclusion of the visit. After extensive review, both the concept of ongoing staff training and the revisions to the financial eligibility policy were subsequently approved by WTLS' Board of Directors at the Board meeting that took place on April 23, 2012. Pursuant to the draft Board minutes, which were provided by the Executive Director on June 21, 2012, and are expected to be approved at the next Board meeting, WTLS adopted this corrective action and will continue to provide staff training and monitoring, as needed, to ensure full compliance.

2. In conjunction with the findings relating to 45 CFR Part 1626 that were discussed in Finding 2 *supra*, WTLS must ensure that all case files contain timely and properly executed written citizenship attestations, or verifications of alien eligibility, pursuant to 45 CFR Part 1626 and CSR Handbook (2008 Ed., as amended 2011), § 5.5, where appropriate.

In its response to the DR, WTLS indicated that this corrective action was addressed during the visit, followed by staff training on the revisions to the citizenship/alien eligibility policy and attestation/verification of eligibility. Pursuant to discussions with the Executive Director during the visit, staff was trained on the revisions to the citizenship/alien eligibility policy, as well as the revised attestations/verification forms, prior to conclusion of the visit, as well as during the week following the visit. After extensive review, both the concept of ongoing staff training and the revisions to the citizenship/alien eligibility policy and attestation/verification of eligibility were subsequently approved by WTLS' Board of Directors at the Board meeting that took place on April 23, 2012. Pursuant to the draft Board minutes, which were provided by the Executive Director on June 21, 2012, and are expected to be approved at the next Board meeting, WTLS adopted this corrective action and will continue to provide staff training and monitoring, as needed, to ensure full compliance.

June 15, 2012

Ms. Lora M. Rath  
Acting Director  
Office of Compliance and Enforcement  
Legal Services Corporation  
3333 K Street, NW, 3<sup>rd</sup> Floor  
Washington, DC 20007-3522

RE: Case Service Report/Case Management System Review Visit  
Recipient No. 643061

Dear Lora:

After the visit which was well received by WTLS staff and a review of the Draft Report, WTLS appreciates the chance to comment on the report and visit. WTLS felt that both the visit and the Draft were constructive and comprehensive.

As you are aware, there were only two (2) required corrective actions and both of these actions were corrected while the team was here. The changes were then authorized by the WTLS Board of Directors at a meeting on April 23, 2012. In addition we have reviewed all of the comments and will continue to consider them as we are constantly striving to improve the delivery of our services. Consequently, we feel that all of the issues raised in the draft report have been implemented and WTLS would like to thank the LSC staff for conducting the visit in a professional manner.

Thank you for your assistance in reviewing WTLS policies and practices and if we have any further questions, we will contact you for your assistance. Thank you again.

Sincerely,



J. Steven Xanthopoulos  
Executive Director

JSX/dw

**WEST TENNESSEE LEGAL SERVICES**  
**BOARD OF DIRECTORS MEETING**  
**MINUTES**  
**April 23, 2012**

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The meeting was called to order by Larry Barbee; in attendance were Charlie Barnett, James Falls, Barbara Hudson, Rick Kendall, Ed McDaniel, Mary Jo Middlebrooks and James Pearson. Also in attendance were Melissa Gilbert, Jane Jarvis, Ashley Holliday, Mrs. Pearson, Fancher Sargent and Steven Xanthopoulos.

**First Item of Business: Minutes**

The minutes were approved as submitted on a motion made by Mary Jo Middlebrooks, seconded by Rick Kendall, and unanimously approved.

**Second Item of Business: 2012 Audit**

2012 Audit. Fancher Sargent, the WTLS auditor, presented his report on the 2012 audit. He reviewed the pertinent procedure and findings. He stated that the audit was clean without any adverse findings. The Board was advised that the audit committee had approved the audit by a unanimous vote on a motion by Larry Barbee, seconded by Mary Jo Middlebrooks. The board approved the audit unanimously on a motion by Larry Barbee and seconded by Mary Jo Middlebrooks.

**Third Item of Business: Updates**

LSC, State Plan and WTLS Update. Steven Xanthopoulos and Melissa Gilbert presented an overview of developments pertaining to LSC, TALS and WTLS.

**Fourth Item of Business: Fiscal Report**

Fiscal and Management Reports. Melissa Gilbert presented the current figures along with projections to the end of the 2012 fiscal year. Gilbert also presented an overview of the various potential and pending WTLS funding sources.

**Fifth Item of Business: LSC OCE Visit**

LSC/OCE visit. Steven Xanthopoulos advised the Board of the outcome of the LSC Office of Compliance and Enforcement visit to the program and notified the Board that the visit was quite successful, professional and productive. LSC will be submitting a draft report in the near future and WTLS will respond appropriately at that time. Xanthopoulos advised the Board that there were two changes that needed to be made in the WTLS Personnel and Policy Manual as relates to case handling procedure and protocols and that management agreed with the changes. A presentation was made by Jane Jarvis and Ashley Holliday as to the updating of the policy manual and that some clarification was needed. The corrective actions focused on consistent application of financial eligibility policy to ensure the implementation of 45 CFR Part 1611 and specifically the recordation of actual, numerical asset values in both the manual intake form and ACMS as well as a comprehensive review of reasonable income prospects for all applicants. In addition WTLS must ensure that all files contain timely and properly executed written

citizenship attestations or verifications of alien eligibility. The recommended modifications to the policy and procedure manual were presented, along with dated retainer agreements. There was discussion of the need for ongoing staff training and monitoring to ensure compliance by staff. After extensive review, a motion was made by Rick Kendall to accept and adopt the above mentioned modifications to the retainer agreement and Policy Manual, seconded by Charlie Barnett, and unanimously approved.

**Sixth Item of Business: Eligibility Review:**

Xanthopoulos presented the annual eligibility review and updated fiscal guidelines from LSC, along with a changing of the assets to be raised to \$10,000.00 in conformance with Tennessee debtor protection statutes. The guidelines will be added as an appendix to the Policy and Procedure Manual. A motion to accept the new 2012 Income Guidelines was made by Charlie Barnett, seconded by James Falls, and unanimously approved.

**Seventh Item of Business: Client Board Appointments:**

Xanthopoulos advised the Board of Directors that several of the client appointing organizations need to be replaced on the Board and he requested that a committee be formed to help determine substitutions for these entities. The committee volunteers are Larry Barbee, Mary Jo Middlebrooks, and Rick Kendall. They will meet and report back to the Board their recommendations.

There being no further business, the Board Meeting was adjourned.

APPROVED: \_\_\_\_\_

DATE: \_\_\_\_\_