



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

Legal Aid Society of Orange County, Inc.
Follow-up to a Case Service Report/Case Management System Review

March 6-8, 2012

Recipient No. 805310

I. EXECUTIVE SUMMARY

Finding 1: LASOC's automated case management system ("ACMS") is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. However, LASOC has not taken sufficient action designed to implement Required Corrective Action items 6 or 9 from the 2010 Final Report ("FR"), and further improvement is required.

Finding 2: LASOC 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 Federal Poverty Guidelines. LASOC has fully implemented Required Corrective Action item 10 from the 2010 FR.

Finding 3: LASOC maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

Finding 4: LASOC is in compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens). LASOC has fully implemented Required Corrective Action item 6 from the 2010 FR.

Finding 5: LASOC is in compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).

Finding 6: LASOC is in compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

Finding 7: Sampled cases evidenced compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources).

Finding 8: LASOC is in non-compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided). While LASOC has taken sufficient action designed to implement Required Corrective Action item 1 from the 2010 FR, further improvement is required.

Finding 9: LASOC's application of the CSR case closing codes is inconsistent with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011). LASOC has not fully implemented Required Corrective Action item 8 from the 2010 FR and further improvement is required.

Finding 10: LASOC is in substantial compliance regarding the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely Closing of Cases). Further improvement is required regarding Required Corrective Action item 6 from the 2010 FR.

Finding 11: Sample cases evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.2 regarding duplicate cases.

Finding 12: Review of the recipient's policies and the list of attorneys who have engaged in the outside practice of law reveals that LASOC is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law).

Finding 13: Sampled cases and a limited review of informational pamphlets and brochures evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 14: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 15: A limited review of LASOC's accounting and financial records pursuant to 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity) was conducted and additional information is needed to assess LASOC's compliance with 45 CFR § 1610.8 regarding program integrity from entities engaging in LSC restricted activities. Information concerning LASOC's affiliate relationship with the Legal Genie was obtained.

Finding 16: LASOC is in non-compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of the PAI cases.

Finding 17: LASOC has developed a process to allocate administrative staff time based on documented attorney and paralegal time.

Finding 18: LASOC has developed a process to utilize contemporaneous time records to allocate direct time costs for attorneys and paralegals, however that process is complex, utilizing both manual payroll timekeeping records and computerized case management records and is not documented in the Program's Accounting Policies Manual.

Finding 19: LASOC Accounting Manual is outdated and does not adequately define administrative internal controls and significant fiscal processes or describe operations as found in the capabilities of the current accounting software in a manner required by the Accounting Guide for LSC Recipients (2010 Ed.).

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).

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).

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

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

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

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: Legal Genie raises potential compliance issues and, based on the complexity of the issues, requires LSC's Office of Legal Affairs review and input.

II. BACKGROUND OF REVIEW

On March 6-8, 2012, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") conducted a Follow-up review ("FUR") on-site visit at the Legal Aid Society of Orange County, Inc. ("LASOC"). This review was a follow-up to a previous FUR and the team assessed whether LASOC implemented the required corrective actions described in the Final Report ("FR") from OCE's March 2010 FUR which was issued in August 2010, in addition to assessing the program's compliance with the LSC Act, regulations, and other applicable guidance such as Program Letters and the Accounting Guide for LSC Recipients (2010 Edition). The visit was conducted by a team of two (2) LSC attorneys and one (1) temporary fiscal analyst employee.

The on-site review was designed and executed to assess those actions taken by LASOC in response to the 2010 FR Required Corrective Actions in addition to its compliance with basic client eligibility, case management, regulatory and statutory requirements, and to ensure that LASOC has correctly implemented the 2008 CSR Handbook, as amended 2011. Specifically, the review team assessed LASOC for compliance with 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); 45 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 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity); 45 CFR Part 1614 (Private attorney involvement);¹ 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); 45 CFR Part 1642 (Attorneys' fees);² 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 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 LASOC's upper and middle management, staff attorneys, and support staff. LASOC's 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 in the Santa Ana office. The sample case review period was from January 1, 2010, 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

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

² 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.

categories. In the course of the on-site review, the OCE team reviewed approximately 110 case files.

LASOC is an LSC recipient that operates a main office in Santa Ana, CA and branch offices in Anaheim, Norwalk, and Compton. LASOC received a grant award from LSC in the amount of \$4,715,989 for 2010; and \$4,521,039 for 2011.

For 2011, LASOC reported 15,384 closed cases in its CSR data. LASOC's 2011 self-inspection report indicated a 5.2% error rate with exceptions noted in eight (8) files out of 151 reviewed. For 2010, LASOC reported 14,603 closed cases in its CSR data. LASOC's 2010 self-inspection report indicated a 2.5% error rate with exceptions noted in five (5) files out of the 200 cases reviewed.

By letter dated January 10, 2012, OCE requested that LASOC provide a list of all cases reported to LSC in its 2009 CSR data submission ("closed 2009 cases"), 2010 CSR data submission ("closed 2010 cases"), a list of all cases closed between January 1 and December 31, 2011 ("closed 2011 cases"), and a list of all cases which remained open as of December 31, 2011 ("open cases").³ 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 LASOC staff and the other for cases handled through LASOC's PAI component. LASOC 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). LASOC was requested to promptly notify OCE, 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 which the team would review during the on-site visit. The sample was created proportionately among 2010 and 2011 closed cases, and 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 LASOC agreement of February 2, 2012, LASOC 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.⁴ LASOC's management and staff cooperated fully in the course of the review process. As discussed more fully below, LASOC was made aware of any compliance

³ Following discussions with the Executive Director, OCE did not require LASOC to submit the 2009 CSR data submission for review. OCE determined that it was unnecessary to review the 2009 CSR data since it was reviewed during the previous FUR in March 2010.

⁴ 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.

issues during the on-site visit. This was accomplished by informing intermediaries of any compliance issues during case review; as well as the Managing Attorney and the Executive Director in the main office.

On March 15, 2012, OCE conducted an exit conference call during which LASOC was provided with OCE's initial findings. LASOC was advised that they would receive a Draft Report that would include all of OCE's findings and they would have 30 days to submit comments.

By letter dated May 11, 2012, OCE issued a Draft Report ("DR") detailing its findings, recommendations, and required corrective actions regarding the March 6-8, 2012 FUR visit. LASOC was asked to review the DR and provide written comments. By letter dated June 21, 2012, LASOC's comments were received. The comments have been incorporated into this Final Report, where appropriate, and are affixed as an exhibit.

III. FINDINGS

Finding 1: LASOC's automated case management system ("ACMS") is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. However, LASOC has not taken sufficient action designed to implement Required Corrective Action items 6 or 9 from the 2010 Final Report ("FR"), and further improvement is required.

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

Required Corrective Action item 6 of the 2010 FR required that LASOC, in part, ensure that cases designated as an LSC PAI case have the involvement of a private attorney. Based on a comparison of the information yielded by the ACMS to information contained in the case files LASOC continues to incorrectly close and report many staff cases as PAI cases. There were seven (7) PAI Bankruptcy Clinic cases that were incorrectly closed and reported to LSC as PAI cases. *See* Case Nos. 11D617162, 11E595960, 11E612606, 11D614148, 11E602056, 11E597074, and 11E584130.

The Bankruptcy Clinic process is conducted in three (3) stages. First, the applicant contacts LASOC's Hotline and, if deemed eligible and accepted by LASOC, is provided advice by a staff or PAI attorney and subsequently given an appointment to attend a Bankruptcy Clinic at a later date. The second stage is to attend the clinic, which is strictly an informational session in a classroom setting; no advice is provided. The PAI attorney explains the bankruptcy process and provides instruction on how to complete the bankruptcy filing documentation. The third stage is having the PAI attorney assist the client individually by reviewing the client's completed bankruptcy paperwork and providing the client with additional advice if necessary.

In many instances the clients failed to appear for their individual advice session with the PAI attorney. During case review, it was revealed that these cases were closed and reported as PAI cases even when the only assistance provided was by a staff attorney at the Hotline stage of the case. LASOC was informed of this error and agreed that cases where the client fails to meet the PAI attorney for individual assistance need to be closed and reported as staff cases unless a PAI attorney provided the assistance during the initial call to the Hotline.

LASOC has a contractual relationship with an organization called Justice in Education (“JIE”) which provides legal services to families who require education services for their children. The 2010 FR noted that there were instances in which JIE provided, and reported, legal assistance to multiple children in the same household as a single case number in error.⁵ The 2010 FR found that JIE was underreporting these special education cases and, pursuant to Required Corrective Action item 9 of the 2010, required JIE to ensure that it reports as separate cases those instances where more than one child in the same household are represented for unique services. The FUR assessed compliance with this Required Corrective Action item and found eight (8) cases in the sample in which LASOC continued to open and report as one (1) case file, cases in which multiple cases were handled for multiple members of the same family unit. *See* Case Nos. 07D436895, 08G449820, 08G449820, 11E577587, 08E474251, 10E101882, 09-1017457, 10-1019302, 10-1018402, and 10-1019012. JIE staff indicated it was LASOC’s screening practice to open one (1) case file per family, even if it handles multiple cases for different family members, so it is likely that many more of these cases exist.

Additionally, the FUR generally assessed LASOC’s ACMS to determine whether it was sufficient to ensure that information necessary for the effective management of cases was accurately and timely recorded. Sampled files contained two (2) cases where the dates were inconsistent in the ACMS and in the case file. *See* Case No. 11E579493 which is a Hotline case where the case appeared opened and closed in the ACMS on January 27, 2011, however, the case file indicates that the legal advice was provided to the client in November 2010; *See also* Case No. 08E444813 which is a JIE case that appears open on the ACMS, but according to JIE, the case was closed in either 2008 or 2009. Sampled files also contained two (2) closing code inconsistencies. *See* Case Nos. 11E608085 and 11E604987 which are PAI cases that were closed with closing code “A” (Counsel and Advice) in the ACMS, however, were closed with the closing code “B” (Limited Action) in the case files. These errors appear to be the result of isolated human error, thus no corrective action is being recommended.

Finally there was one (1) open JIE case that appeared on the ACMS; however, JIE has no record of the client or case number in its system. *See* Case No. 07E426378.

As sampled files demonstrated an apparent lack of understanding amongst LASOC screeners as to opening of JIE cases for multiple family members, the FUR demonstrated that LASOC has not taken sufficient action designed to implement Required Corrective Action item 9 from the 2010 FR, and further improvement is required. As a new Required Corrective Action, LASOC was directed to develop written procedures to guide its staff in the opening of JIE cases for multiple members served from one (1) family.

⁵ As unique assistance was provided to different children, based upon their unique special education issues, a separate case for each child should have been opened.

In response to the DR, LASOC indicated that the staff attorney responsible for overseeing the legal services provided under the JIE contract is preparing a Chapter for LASOC's Case Handling Manual that will set forth the procedures for referring, overseeing, and closing cases. According to LASOC, the procedures set forth in the Manual will ensure that LASOC is complying with all of the appropriate requirements in the CSR Handbook (2008 Ed., as amended 2011) and LSC regulations. Incorporated in the procedures will be the requirement that a case number is given for each family member that is being assisted with legal services by JIE.

Furthermore, as sampled files demonstrated LASOC has not taken sufficient action designed to implement Required Corrective Action item 6 from the 2010 FR, which required that LASOC ensure files designated as LSC PAI cases have the involvement of a private attorney, a new Required Corrective Action was issued requiring that Bankruptcy Clinic cases, where the client fails to meet the PAI attorney for individual assistance, are closed and reported as staff cases unless a PAI attorney provided assistance at the Hotline stage.

In response to the DR, LASOC indicated it will comply with this directive.

Finding 2: LASOC 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 Federal Poverty Guidelines. LASOC has fully implemented Required Corrective Action item 10 from the 2010 FR.

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.⁶ *See* 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.

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), 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

⁶ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

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.

In advance of the review, LASOC provided LSC a copy of its current Financial Eligibility Guidelines, a majority of which was reviewed by LASOC's Board of Directors on January 8, 2008. The policy provides that an applicant whose income does not exceed 200% of the FPG can be determined eligible for legal assistance based on consideration of one (1) or more factors, with one (1) of the listed factors being "fixed debts and obligations, including but not limited to rent and utilities." Required Corrective Action item 10 of the 2010 FR instructed LASOC to record additional detail regarding the nature and general amount of fixed debts when using the "fixed debt" factor for clients whose income is between 125-200% of the FPG. In its response to the DR, LASOC stated that its ACMS was revised to record additional fixed debt data so as to ensure that sufficient detail regarding "fixed debts" is recorded for clients whose income is between 125-200% of FPG.

During the FUR, both the Database Administrator and the Supervising Attorney of the Hotline, PAI Coordinator, and Legal Resource Center ("LRC") (the "Supervisor") were interviewed, and the ACMS was reviewed to assess whether LASOC implemented Required Corrective Action item 10. The FUR found that in February 2011, LASOC programmed additional screening fields into its ACMS to capture information concerning the nature and amount of the fixed debts and obligations. The ACMS now contains drop down menus listing the income exception categories. If the screener selects the "fixed debts and obligations" exception, the screener must record a description of the debt or expense, and the amount of the fixed debt before being able to continue with the intake. This information is then displayed on the intake main menu page in a dialog box in the Notes section. The applicant's original gross income is retained in ACMS as a separate and identifiable field, and a record is preserved indicating that the applicant initially exceeded the basic income level, but was served pursuant to over-income exceptions allowed under 45 CFR § 1611.5.⁷ The FUR found that LASOC's intake form now captures information concerning the type of fixed debt that is considered and the specific amount of the fixed debt.

Additionally, the FUR sampled files to assess whether the type and amount of the fixed debt was recorded in the ACMS. Twenty-nine (29) of the sampled files contained documentation that the applicant's income was between 125-200% and were assessed for compliance with Required Corrective Action item 10. Fifteen (15) files were opened after the issuance and formal implementation of the Required Corrective Action item 10 and contain evidence of the nature and amount of the fixed debt and obligation and other authorized exceptions considered. Thus, the applicant's eligibility under this exception is now clearly established in the ACMS due to the changes made to the ACMS and the new intake procedures.

The case review evidenced three (3) sampled files where the client's income was between 125% and 200% of the FPG and lacked documentation of the basis for acceptance. *See* Case Nos. 11E595720, 10-1019302, and 10-1018402. These are cases where LASOC did not obtain over-income waivers because intake staff believed that "senior" cases could be served without regard

⁷ Although LASOC records gross income and the amount of the exception considered, it does not record the amount of the adjusted income.

to income due to incorrect instructions programmed into the ACMS. When alerted to this issue, LASOC immediately re-programmed its ACMS to clearly indicate that no over-income applicant can be served by the LSC grant, nor can the corresponding cases for these individuals be reported in the CSRs to LSC, unless income waivers are obtained.

Accordingly, LASOC has taken sufficient action designed to implement Required Corrective Action item 10 from the 2010 FR. No further action is required.

In response to the DR, LASOC offered no comments on this Finding.

Finding 3: LASOC maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

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.⁸ *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.

With only one (1) exception, sampled case files reviewed revealed that LASOC maintains asset eligibility documentation required by 45 CFR §§ 1611.3(c) and (d), and CSR Handbook (2008 Ed., as amended 2011), § 5.4. *See* Case No. 10D573577 which is a closed 2011 PAI case in which the household assets were recorded as \$550,000. The LSC funded file failed to contain a waiver as required by LASOC policy, and did not contain information concerning the source or nature of these assets. LASOC was informed that this case should not have been reported to LSC. As this error appeared to be the result of human error, no corrective action is being recommended.

In response to the DR, LASOC offered no comments on this Finding.

⁸ 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.

Finding 4: LASOC is in compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens). LASOC has fully implemented Required Corrective Action item 6 from the 2010 FR.

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.⁹ Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient’s CSR data submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, “Violence Against Women Act 2006 Amendment” (February 21, 2006), which instructs recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual assault or trafficking, or who qualify for a “U” visa. LSC recipients are now allowed to include these cases in their CSRs.

Required Corrective Action item 6 of the 2010 FR required LASOC to ensure that currently open Public Law Center (“PLC”) cases lacking properly executed citizenship attestations would be deselected from CSR reporting. It also required PLC to use LASOC forms for citizenship and to record the date when the applicant’s alien status was screened for eligibility.

During the FUR, compliance with this Required Corrective Action item was assessed by review of sampled PLC files. Review of these files reflected that LASOC, which includes PLC, uses forms that are in the format set forth in the CSR Handbook (2008 Ed., as amended 2011), § 5.5,¹⁰ and that the sampled files contained properly executed attestations. Similarly, review of sampled files reflected that LASOC uses forms that include the date on which an applicant’s alien eligibility status was verified so that timelines can be ascertained.

⁹ *See* Kennedy Amendment at 45 CFR § 1626.4.

¹⁰ The CSR Handbook (2008 Ed., as amended 2011) requires attestation contain the following statement on a separate document or a separate signature line: I am a citizen of the United States: _____ *Signature of applicant*
Date: _____.

Additionally, LASOC's overall compliance with the documentation requirements of 45 CFR 1626 was assessed by reviewing the 45 CFR Part 1626 documentation found in the sampled files. With one (1) exception, all sampled files contained a written attestation or evidence of screening for eligible alien status, where required. *See* Case No. 11E614702. As this error appeared to be the result of human error, no corrective action is being recommended.

Accordingly, LASOC has taken sufficient action designed to implement Required Corrective Action item 6 from the 2010 FR. No further action is required.

In response to the DR, LASOC offered no comments on this Finding.

Finding 5: LASOC is in 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.¹¹ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

Sampled cases evidenced compliance with the retainer requirements of 45 CFR § 1611.9. However, this finding is limited because the only extended service cases reviewed were PAI cases, which do not require the execution of a retainer agreement.

In response to the DR, LASOC offered no comments on this Finding.

Finding 6: LASOC is in compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

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

¹¹ 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.

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).

Sampled cases evidenced compliance with the requirements of 45 CFR §§ 1636.2(a)(1) and (2).

In response to the DR, LASOC offered no comments on this Finding.

Finding 7: 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.

Sampled cases evidenced compliance with the requirements of 45 CFR §§ 16320.3(a) and 1620.6.

In response to the DR, LASOC offered no comments on this Finding.

Finding 8: LASOC is in non-compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided). While, LASOC has taken sufficient action designed to implement Required Corrective Action item 1 from the 2010 FR, further improvement is required.

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.

Required Corrective Action item 1 of the 2010 FR required LASOC to develop an understanding amongst its staff as to the type of activities commonly denoted as “legal advice” compared to the type of activities considered to be “informational” in nature. Staff was required to distinguish between legal advice and legal information when providing unscreened services in the LRC as well as screened services to clients. The 2010 FR instructed LASOC that the same language and/or actions cannot be considered both a screened case in the one (1) unit and an unscreened matter in another unit. Thus, LASOC was required to prepare a detailed training document that provided guidance to staff and also provide training so as to ensure that the correct separation of legal information from legal advice was being implemented.

The FUR team found that LASOC had prepared training materials. Included in these materials were:

- “Legal Advice or Legal Information?” Power Point Presentation;
- CSR Handbook (2008 Ed.), § 2;
- The ABA Standards for Providers of Civil Legal Aid, Standard Regarding Provider Effectiveness, § 3.1, 3.4, 3.5, and 3.6; and
- May I help you? Legal Advice vs. Legal Information: A Resource Guide for Court Clerks.

These materials were created in consultation with the California Administrative Office of the Courts, and distributed during one (1) hour training sessions held at the Santa Ana, Compton, and Norwalk offices on January 19, January 20, and January 21, 2011. The trainings were conducted by LASOC senior management and attended by LASOC staff. LASOC has not continued these trainings, nor have they provided new staff or PAI providers with training.

The FUR team interviewed management and staff of the LRC and the Hotline, reviewed sampled files for evidence of legal assistance, observed the operations of the Hotline, and observed the interactions between the LRC staff, which includes the Lawyer Referral Service (“LRS”) and Small Claims Advisory Program (“SCAP”), and its customers (the individuals who received assistance through these programs). The FUR found that LASOC has changed its procedures and its interactions with its customers and clients, so that legal information is provided to customers of the LRC, or otherwise to unscreened persons, and legal assistance is provided to those persons meeting the eligibility requirements of LASOC and LSC. However, the FUR also identified a limited pattern of error in that some sampled files reported to LSC as cases in the CSRs documented the provision of legal information rather than advice.

During the FUR, the Supervisor of the LRC and Hotline stated that LASOC has ensured the clear delineation between legal information and advice by conducting training and performing on-going oversight. The LRC has pared down the assistance it provides in that it no longer provides specific information to the customers of the LRC. The result is now that the LRC only provides very general information. For example, a LASOC intern stated that she understands that the delineation between legal information and advice is that she “tells them the rules but not what to do.” The Supervisor indicated that the delineation between advice and information may be in how the question is answered. For example, if a user asks the LRC staff person if they “can win

their case,” the answer will be, “that’s for the judge to decide,” however, a Hotline attorney would provide a definitive answer based upon the attorney’s application of the law to the client’s facts, and would tell the client if the case was strong, weak, or it was too close to determine.

The Supervisor further stated that Hotline staff members have made a concerted effort to fully and clearly document the assistance provided in case files. LRC and Hotline staff understand that legal assistance focuses on analysis of the client’s legal problem, specific recommendations, and the likely success the client may have with his or her legal matters. For example, the Supervisor stated that providing generic child support information such as that there is a right to support, that support must be requested, and that generally child support is paid to a custodial parent, is the provision of legal information. The Supervisor further stated that informing someone that he or she will probably be awarded support because the child lives with him or her is the provision of legal advice and can only be provided after being screened eligible for services.

The Supervisor stated that while “canned or boilerplate advice” will be provided to Hotline clients, clients will also receive additional specific advice tailored to their particular facts. After verbal consultation with the attorneys, this additional legal advice is recorded into the ACMS by the LASOC intake screeners or the attorneys themselves. Cases without legal advice are closed as “Service Not Rendered,” and not reported to LSC in the CSRs. LASOC has increased the oversight of its staff to ensure that the distinction between legal advice and information is maintained. The “duty attorney” reviews all Hotline cases to ensure all cases reflect legal assistance, and the Supervisor and the Director of Litigation review samplings of the Hotline files to ensure they reflect the legal assistance provided to the clients. The Supervisor ensures that legal information is provided to the customers by the LRC staff by observing interactions with the LRS and SCAP users.

During the FUR, 11 staff interactions with LRC users were observed. Eight (8) of those interactions involved assistance with small claims matters, and three (3) of the observations were referrals to private LRS attorneys. The interactions observed reflected the provision of legal information to LRC users. Some of the interactions observed were quite short, such as the referral of users with legal problems to private attorneys for help with evictions, or other assistance, such as providing the address to a courthouse. In contrast, there were other observed interactions that were quite lengthy. For example, a LRC staff member assisted a woman who wished to dismiss an action in small claims court. The staff member told the customer what she could file, and that the judge would decide whether the case could be dismissed. The customer was given the name of the form to file, was told how to mail it to the court, was provided with the court’s address, and was told how to obtain a conformed copy. These were interactions where only legal information was provided. In another observation, the Supervisor assisted a landlord with the filing of a suit against a former tenant. The Supervisor assisted the landlord with the completion of pro se forms. When the landlord inquired if “asking for damages was ridiculous,” the Supervisor answered that “people ask for damages all the time,” and instructed her to “document and itemize all the expenses that support the damages that you are requesting.” This interaction indicated that the Supervisor provided general legal information concerning damage requests in small claims matters, and did not provide legal advice concerning the customer’s specific damage claim. In a third observation, a staff member assisted a customer

with filing a lawsuit against a driver with whom he was involved in a collision. The customer wished to sue the driver's insurance company, as well as the driver, in small claims court. The staff member provided the customer with a fact sheet and instructed him that the sheet would help him determine "whether the insurance company was the proper party to sue." The staff member asked the customer to read it as "generally, the driver is sued and not the insurance company." The man refused to read the fact sheet, and the staff member helped him complete the pro se forms, naming the insurance company as a party to the suit. The FUR observation indicated that the LRC very carefully provided relevant information and document assembly to the LRC customers, and did not provide legal advice during these observed interactions.

In contrast, sampled files from the Hotline and Family Law Clinic reflected the provision of legal advice. Frequently the advice was minimal, such as informing a client that he had "60 days from April 20, 2011," to request reconsideration of his legal matter, that the client could be evicted by her landlord even if the landlord was her father, or the adverse party's pension is considered community property under the laws of California." There were also files in which the documentation of legal advice was lengthy, such as the preparation of a client for trial with evidence of a discussion of the viable defenses the client should raise, or a discussion of the timing and options for rent payments when the rental property in question was being foreclosed upon. In these examples, the attorney applied his or her legal judgment to the client's particular set of facts and rendered an opinion. In each of these sampled files, the legal assistance provided to these eligible clients demonstrated the types of legal activity which could properly be considered legal advice and reported to LSC as a case.

Although LASOC has changed its procedures and its interactions with its customers and clients so that legal information is provided to customers of the LRC, or to otherwise unscreened persons, and legal assistance is provided to those persons meeting the eligibility requirements of LASOC and LSC, there were nine (9) sampled Hotline case files that failed to document the provision of legal assistance and only documented the provision of legal information. *See* Case Nos. 11D588488, 11E608424, 11E586283, 11D610140, 11D619787, 11E620015, 11E614039, 11E624451, and 11E604129. These cases contained documentation that was similar to the descriptions of LRC activities which do not require eligibility screening.

The Hotline consists of approximately eight (8) to 10 telephone stations. Two (2) of the stations have LASOC staff members conducting eligibility intake ensuring that the applicants are eligible for LASOC's services. The remaining stations consist of LASOC staff collecting factual information of the client's case for an attorney to review. There is one (1) attorney in the room who goes from station to station reviewing facts of each case and telling the intake staff the particular advice to relay to the client. This is done either by the attorney recording the legal advice directly into the ACMS or by the attorney verbally explaining the advice to be provided to the intake staff who in turn will then enter the information into the ACMS. The intake staff will then relay the attorney's legal advice to the client. In most instances, "canned or boilerplate advice" is provided to Hotline clients with additional advice tailored to the client's particular set of facts. To prevent situations where advice given is not fully documented in the ACMS, LSC recommends that attorneys who provide advice through the Hotline record the advice they provide a client directly into the ACMS, rather than relying on Hotline intake staff to enter it for them.

There were also four (4) sampled PAI family law clinic files reviewed that failed to document the provision of legal assistance and only documented the provision of legal information. These cases contained documentation that was similar to the descriptions of LRC activities. These cases involved the preparation of pro se family law pleadings. The files documented, in a very general manner, the services rendered, such as “discussed custody,” “advised concerning the divorce process,” or “assisted with ICAN to file initial divorce pleadings.” *See* Case Nos. 11D606076, 11E606296, 11E606935, and 11E599060. These general descriptions do not explicitly set forth the connection between the particular facts and circumstances of a client’s case and the advice that is rendered as a result of the analysis of a client’s facts and circumstances.

LASOC explained that these persons were provided with legal assistance because attorneys met with each pro se litigant individually to discuss legal options and to answer each client’s specific legal questions. This practice was corroborated during the FUR team’s interview with an attorney who volunteered in the PAI clinics. Thus, the pattern of error identified appears to be the failure to document the legal assistance provided rather than the failure to provide legal assistance in the clinic settings. However, as the advice resulting from these consultations was not documented in the file, and the file only documented the provision of legal information, these files, and other similarly documented files, fail to contain the evidence of legal advice as required by the CSR Handbook (2008 Ed., as amended 2011), § 5.6, and should not be reported to LSC in the CSRs.

LASOC has taken sufficient action designed to implement Required Corrective Action item 1 from the 2010 FR as it relates to LRC activities and eligibility screening practices of LASOC. However, it appears that LASOC fails to document the legal advice in some of its Hotline and PAI clinic case files, and, therefore further improvement is required. As a new Required Corrective Action, LASOC was directed to develop written procedures to guide its staff regarding the level of documentation that is required in case files in order to sufficiently evidence the provision of legal assistance provided, and to provide a methodology for appropriate oversight of its Hotline and PAI attorneys in order to ensure that cases contain the required documentation. Cases lacking documented legal assistance must not be reported to LSC in LASOC’s CSR data submission, in compliance with § 5.6 of the CSR Handbook (2008 Ed., as amended 2011).

In response to the DR, LASOC indicated that the Hotline duty attorney will type in the specific legal advice provided on the Hotline ACMS to help ensure the documented evidence of the legal advice offered to the client. According to LASOC, the duty attorney will be responsible to review each case on which they provided legal advice that day. LASOC indicated that the ACMS has a report for the attorneys which lists each intake they supervised, with a box for the attorney to confirm they have reviewed their intakes. According to LASOC, each day, Hotline supervisors will monitor the confirmation boxes to see that each case has been reviewed.

According to LASOC, in the next version of the ACMS that they plan to implement, there will be a specific legal advice box in which the attorney will type notes to help confirm that specific legal advice was given. LASOC indicated that this box will be separate from the general notes section and intake will not be closed unless the box contains legal advice or, alternatively, the

case is closed as services not rendered and not countable for LSC purposes. This will allow LASOC to run reports to confirm that legal advice was given and recorded in the specific notes section.

Additionally, LASOC indicates that it will conduct both a formal and informal training for PAI attorneys to ensure they understand that evidence of legal advice is required to be included in each clinic file. According to LASOC, staff has implemented a review process for all clinic cases closed as PAI to ensure legal advice is included in the files.

Finding 9: LASOC’s application of the CSR case closing codes is inconsistent with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011). LASOC has not fully implemented Required Corrective Action item 8 from the 2010 FR and further improvement is required.

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 August 2010 FR noted that while LASOC’s application of the CSR closing codes was substantially consistent with the CSR Handbook (2008 Ed., as amended 2011), one (1) pattern of error was identified in that LASOC’s PAI providers selected closing code “B” (Brief Services/Limited Action) when the level of service clearly went beyond limited service; “L” (Extensive Services) would be the most applicable closing code. Required Corrective Action item 8 of the 2010 FR instructed LASOC to conduct additional oversight and training, as needed, to also ensure that PAI subcontractor cases are closed with proper LSC closing codes, and to ensure that JIE cases with extensive work are closed with a higher level closing code when appropriate.

The FUR team interviewed PAI providers from JIE and C&J,¹² hereafter described as JIE/C&J, as part of its assessment of Corrective Action item 8. The intermediaries, who were JIE/C&J staff, reported they were responsible for assigning the CSR closing codes to files that they handled. The intermediaries further indicated that they had a limited understanding of CSR case closing codes as contained in Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011), and did not recollect having attended training on the use of case closing codes.

Sampled cases evidenced that while LASOC staff and PAI subcontractors’, other than JIE/C&J, application of the CSR case closing codes are consistent with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011), the closing code assignments made by JIE/C&J were inconsistent with the CSR Handbook. Specifically, five (5) sampled cases of the 26 JIE/C&J cases reviewed contained closing codes inconsistent with the CSR Handbook (2008 Ed., as amended 2011). *See* Case No. 08D472653, a 2011 case closed using the case closing code “L” (Extensive Services), but the more applicable closing code is “F” (Negotiated settlement without

¹² The staff members of JIE also provide services to LASOC, as part of the C&J law firm, and thus files sampled from both JIE and C&J were assessed to determine compliance with this corrective action item.

Litigation) because the file reflected that without resort to litigation, JIE negotiated a settlement of the case whereby a child was placed in a residential treatment facility to obtain necessary services; Case No. 10E571247, a 2011 case closed with the case closing code “A” (Counsel and Advice), but the more applicable closing category is “B” (Limited Action) because the file reflected that a third party correspondence was prepared for the client requesting reconsideration of special education services; Case No. 11E585243, a 2011 case closed with the case closure category “A” (Counsel and Advice), but the more applicable case closing code is “L” (Extensive Services) because the file reflected C&J prepared a document records request after extensive review of a special education case; Case No. 11E579756, a 2011 case closed using the case closing code “L” (Extensive Services), but the more applicable category is “F” (Negotiated settlement without Litigation) because the file reflected that ,without resort to litigation, JIE negotiated a settlement for a child to be provided special education services; and No. 10E553838, a 2011 case closed using the case closing code “L” (Extensive Services), but the more applicable category is “F” (Negotiated settlement without Litigation) because the file reflected, that without resort to litigation, C&J negotiated a settlement for a child to be provided special education services.

Additionally, there was one (1) PLC case where the incorrect closing code was applied. *See* Case No. 10E556400, a 2012 case closed using the closing category “B”(Limited Action) but the more applicable case closing code is “A” (Counsel and Advice) because only advice was documented in the case file.

The FUR found that LASOC has not taken sufficient action designed to implement Required Corrective Action item 8 from the 2010 FR, and further improvement is required. As a new Required Corrective Action, LASOC should ensure that the closing codes selected by JIE/C&J best reflect the level of assistance provided to a client so that each case can be reported accurately to LSC in the CSRs. This could be accomplished by providing training to JIE/C&J on CSR case closing codes. Alternatively, LASOC could institute the practice of retaining primary responsibility for assigning the appropriate closing codes to all JIE/C&J cases, pursuant to CSR Handbook (2008 Ed., as amended 2011), § 6.1, Chapters VIII and IX. As part of this new Required Corrective Action item, LASOC must develop procedures for the provision of oversight of JIE/C&J’s closing code assignments or develop a methodology for review of JIE/C&J cases so that LASOC staff can accurately assess the legal assistance provided by JIE/C&J in order to assign the appropriate closing code.

In response to the DR, LASOC indicated that it will initially retain primary responsibility for assigning the appropriate closing codes. LASOC plans on training JIE and C&J staff on case closing and when they are satisfied that JIE and C&J are able to assign the proper closing codes, LASOC will give them the responsibility for assigning closing codes. Additionally, LASOC indicated that it will randomly select cases for review to ensure that closing codes are being properly assigned.

Finding 10: LASOC is in substantial compliance regarding the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely Closing of Cases). Further implementation of Required Corrective Action item 6 from the 2010 FR is required.

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).¹³ 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).

The August 2010 FR noted that PLC did not provide adequate ongoing oversight to the cases it placed with pro bono PAI attorneys, and significant dormancy issues were noted in open cases. Although the cases reported to LSC in the CSR data reflected timely closure, a significant number of open cases reviewed during the FUR were found to be dormant or potentially inactive.

Required Corrective Action item 6 of the 2010 FR required LASOC to take targeted corrective action to review all open PLC cases to determine whether the case was dormant and to determine whether additional follow-up and oversight of PLC cases was necessary. Additionally, LASOC was instructed that when it closed open PLC cases that were significantly dormant, the files should be closed in a manner that deselected them from being reported to LSC in future CSRs.

Sample cases were assessed on compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3(a). There were three (3) PLC cases and two (2) JIE cases that were either dormant or not timely closed. *See* Case Nos. 09D521731, an open PLC case where the last documented work in the file was on December 4, 2009; 10E556400, a closed 2012 PLC case that was opened on August 16, 2010, and closed on February 29, 2012. There was assistance provided to the client, however, there is no date indicating when the assistance was provided; 09E489290, an open PLC case that was placed with an attorney on August 2009, but no work was documented in the case file after this date; 08E475437, a closed 2010 JIE case that was opened on December 5, 2008, where the JIE's notes indicate that file was closed the case on January 19, 2009, by JIE with case closing code "A" (Counsel and Advice), however, the case was not closed by LASOC until February 28, 2010; and 08E474251 a closed JIE case that was opened on November 24, 2008. The last documented work in the case file occurred sometime in 2008, however the case was not closed by LASOC until February 28, 2010.

¹³ 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).

The FUR found that further implementation of Required Corrective Action item 6 from the 2010 FR is required, specifically with PLC cases. PLC sends status update requests to its Pro Bono attorneys only once per year each December. If a PAI attorney does not respond to the status update request, the case will be held open into the next reporting year. There appear to be no proactive steps taken by LASOC to obtain status updates for these cases. LASOC must develop and implement a mechanism to obtain status updates more frequently in order to avoid continued timeliness and dormancy issues with PLC cases. LASOC should also be mindful to ensure that JIE cases completed by are closed at LASOC in a timely manner.

In response to the DR, LASOC indicated it will require that PLC conduct a review of all open cases and close dormant cases in a manner that would deselect the appropriate cases from future CSR reporting. Additionally, LASOC will require PLC to implement a procedure that ensures cases do not become dormant and will expand its oversight to include semi-annual review of a random sample of PLC's open cases to ensure that PLC's follow-up system on cases referred to private attorneys is effective.

Finding 11: Sample 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.

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

In response to the DR, LASOC offered no comments on this Finding.

Finding 12: Review of the recipient’s policies and the list of attorneys who have engaged in the outside practice of law, revealed that LASOC 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 and the review of the recipient’s policies and the list of attorneys who have engaged in the outside practice of law, LASOC is in compliance with the requirements of 45 CFR Part 1604.

In response to the DR, LASOC offered no comments on this Finding.

Finding 13: Sampled cases, interviews, and a limited review of fiscal documentation evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

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

The sampled files reviewed indicated compliance with 45 CFR Part 1608. Discussions with LASOC's Director of Operations confirmed that LASOC is not involved in this prohibited activity. A limited review of fiscal records reflected in LASOC’s Chart of Accounts, including cash disbursements, also provided no indication that the program was involved in any prohibited political activity during the review period.

In response to the DR, LASOC offered no comments on this Finding.

Finding 14: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

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

Recipients may provide legal assistance in such cases where the case has been rejected by the local lawyer referral service, or two (2) private attorneys; neither the referral service nor two (2)

private attorneys will consider the case without payment of a consultation fee; the client is seeking Social Security or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the 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).

In light of recent regulatory changes, LSC has prescribed certain specific requirements for fee-generating cases. *See* Program Letters 09-3 (December 17, 2009) and 10-1 (February 18, 2010). LSC has determined that it will not take enforcement action against any recipient that filed a claim for, or collected or retained attorneys' fees during the period of December 16, 2009 through March 15, 2010. Enforcement activities related to claims for attorneys' fees filed prior to December 16, 2009, or fees collected or retained prior to December 16, 2009, are no longer suspended and any violations which are found to have occurred prior to December 16, 2009 will subject the grantee to compliance and enforcement action. Additionally, the regulatory provisions regarding accounting for and use of attorneys' fees and acceptance of reimbursement from clients remain in force, and violations of those requirements, regardless of when they have occurred, will subject the grantee to compliance and enforcement action.

Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

In response to the DR, LASOC offered no comments on this Finding.

Finding 15: A limited review of LASOC's accounting and financial records pursuant to 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity) was conducted and additional information is needed to assess LASOC's compliance with 45 CFR § 1610.8 regarding program integrity from entities engaging in LSC 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 LASOC's accounting and financial records pursuant to 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity) was conducted and it was determined that additional information is needed in order to assess LASOC's compliance with 45 CFR § 1610.8 regarding program integrity from entities engaging in LSC restricted activities. *See* discussion below at Finding 30.

In response to the DR, LASOC offered no comments on this Finding.

Finding 16: LASOC continues to be in non-compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of the PAI cases.

Recipients are required to develop a PAI Plan and budget. See 45 CFR Part 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).

Required Corrective Action item 6 of the 2010 FR required that LASOC ensure that PLC implements an ongoing case oversight and follow-up system for open PAI cases so as to comply with 45 CFR § 1614.3(d)(3). LASOC continues to be in non-compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of PAI cases. LASOC utilizes private attorneys in the direct delivery of legal assistance to eligible clients in four (4) ways: as supervisors of intake and assistance on LASOC's Hotline; through a contract with PLC; through a contract with JIE; and on a few occasions, through Judicare contracts with private attorneys. Although there were very few dormant or untimely cases in the sample reviewed, LASOC relies heavily on PLC and JIE to provide case status updates, which increases the likelihood of timeliness and dormancy issues occurring in the future. JIE has an effective system in place by which they notify LASOC once per month with status updates regarding opened cases; however, PLC only sends case status update requests to the Pro Bono attorneys once per year every December. If a PAI attorney does not respond to a status update request, the case will be held open into the next reporting year. There appear to be no proactive steps taken by LASOC to obtain status updates for these cases. The current Director of PLC is relatively new, but was formerly a Managing Attorney at the Legal Aid Foundation of Los Angeles, an LSC recipient, and has a clear understanding of LSC regulations and what is required of LASOC. He indicated that he would develop a policy with LASOC to obtain more frequent status updates in order to prevent timeliness and dormancy issues in the future. The attorney who oversees Judicare cases does an excellent job overseeing these cases as requests for status updates are sent quarterly to the PAI attorneys and the legal assistance provided is extensively documented in the case files.

As stated in the 2010 FR, LASOC should take immediate corrective action and provide direct oversight to all LSC-eligible PLC open cases. Cases that are dormant should be closed and deselected from LSC CSR reporting. Also, LASOC should require PLC to adopt more effective open case follow-up and oversight procedures so as to ensure that cases are completed and reported in a timely manner. LSC emphasizes that the need for effective follow-up and oversight is not merely a compliance issue, but is also critical to ensuring that pro bono clients are receiving timely legal assistance.

As stated in Finding 10, in response to the DR, LASOC indicated it will require that PLC conduct a review of all open cases and close dormant cases in a manner that would deselect the

appropriate cases from future CSR reporting. Additionally, LASOC will require PLC to implement a procedure that ensures cases do not become dormant and will expand its oversight to include semi-annual review of a random sample of PLC's open cases to ensure that PLC's follow-up system on cases referred to private attorneys is effective.

Finding 17: LASOC has developed a process to allocate administrative staff time based on documented attorney and paralegal time.

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.

Required Corrective Action item 5 of the 2010 FR required LASOC to cease the allocation of estimated administrative staff time towards its PAI 12.5% allocation. The LSC regulations, at 45 CFR § 1614.3(e), require, in part, that "...the timekeeping requirement does not apply to such employees as receptionists, secretaries, intake personnel or bookkeepers; however, personnel cost allocations for non-attorney or non-paralegal staff should be based on other reasonable operating data which is clearly documented..." Comments to the 2010 DR stated that LASOC would cease the allocation of estimated administrative staff time towards the PAI 12.5% calculation.

Following LSC's March 2010 FUR, LASOC revised its procedures for determining administrative staff time allocated to PAI expenses. Indirect administrative personnel overhead costs are determined monthly, based on a computation of the percentage to total payroll of the combined (matrix and timesheet) PAI attorney/paralegal direct time salary costs. The revised process, as described, is not documented in LASOC's Accounting or Personnel Policy Manuals.

A review of the PAI indirect payroll formula used by LASOC revealed that it allocates a portion of the Supervisor's payroll costs whose time is already allocated as a direct cost based on PAI time reporting. This has the effect of overstating the PAI costs attributable to this Supervisor.¹⁴

LASOC must revise the PAI cost allocation process to ensure that the allocation of personnel's direct time is not also allocated in the indirect cost computations. LASOC should then include the new allocation process in its Accounting and/or Personnel Policy Manuals.

In response to the DR, LASOC offered no comments on this Finding.

Finding 18: LASOC has developed a process to utilize contemporaneous time records to allocate direct time costs for attorneys and paralegals, however that process is complex, utilizing both manual payroll timekeeping records and computerized case management records and is not documented in the Program's Accounting Policies Manual.

Required Corrective Action item 4 of the 2010 FR required that LASOC cease its three-month allocation system of estimating staff time allocated to PAI. All case handler time attributed to PAI should be done, as required, based on actual time sheets.

45 CFR § 1614.3(e) requires in part that "...if any direct or indirect time of staff attorneys or paralegals is to be allocated as a cost to PAI, such costs must be documented by time sheets accounting for the time those employees have spent on PAI activities. ..."

Following LSC's March 2010 FUR, LASOC revised its procedures for documenting and reporting PAI expenses. The new procedure requires LASOC to utilize a combination of its ACMS as the data source for PAI case time, and employee payroll timecards for establishing PAI non-case time for payroll allocation. The procedure, as described, is not documented in the LASOC's Accounting or Personnel Policy Manuals.

Attorney and paralegal PAI case time is recorded contemporaneously in the ACMS, however, the time is not recorded in the PAI column of the employee's payroll timesheet. Non-case PAI time by paralegals and staff attorneys is recorded daily on employees' manual entry payroll time cards submitted each two (2) week pay period. A random sample of limited paralegal and attorney time sheets found the same PAI time recorded in both systems resulting in over-counting of PAI hours. The resulting error is due to not reconciling the computer and manual entries. LSC recommends that LASOC consider utilizing the ACMS as its sole data recordation system for PAI direct time.

According to LASOC, it has corrected the allocation process by exclusively using the timekeeping report generated by the ACMS to generate the allocation for direct time. LASOC indicated that this process eliminates the opportunity for reporting the same time as both direct and indirect time.

¹⁴ The current process uses the employee's direct PAI time to compute the program-wide percentage factor and then applies it against the employee's entire salary including time already designated as direct PAI.

Finding 19: The LASOC Accounting Manual is outdated and does not adequately define administrative internal controls and significant fiscal processes or describe operations as found in the capabilities of the current accounting software in a manner required by the Accounting Guide for LSC Recipients (2010 Ed.).

Outdated Processes – The LASOC Accounting Manual was partially updated in February 2009. Since that time the Accounting Guide for LSC Recipients (2010 Ed.) has been issued and the program has fully implemented the components of its SAGE accounting software. LASOC should update its Accounting Manual to reflect changes in the Accounting Guide for LSC Recipients (2010 Ed.), as well as changes in its own policies and procedures. LASOC should also explore the use of more efficient data backup options as currently available.

In response to the DR, LASOC indicated it has begun to update its Accounting Manual in order to reflect all of the current significant accounting processes. According to LASOC, it will continue its review of the Accounting Manual and will make appropriate changes to ensure that it complies with the requirements of Appendix VII Accounting Procedures & Internal Control Checklist of Accounting Guide for LSC Recipients (2010 Ed.)

Cost Allocation System – 45 CFR § 1630.3(f) requires, where a recipient has only one major function, i.e., the delivery of legal services to low-income clients, allocation of indirect costs may be by a simplified allocation method, whereby total allowable indirect costs (net of applicable credits) are divided by an equitable distribution base and distributed to individual grant awards accordingly. The distribution base may be total direct costs, direct salaries and wages, attorney hours, numbers of cases, numbers of employees, or another base which results in an equitable distribution of indirect costs among funding sources.

45 CFR § 1630.3(g) requires that some funding sources may refuse to allow the allocation of certain indirect costs to an award. In such instances, a recipient may allocate a proportional share of another funding source's share of an indirect cost to Corporation funds, provided that the activity associated with the indirect cost is permissible under the LSC Act and regulations.

Additionally, according to 45 CFR § 1614.3(e)(1)(i), non-personnel costs attributable to PAI shall be allocated on the basis of reasonable operating data. All methods of allocating common costs shall be clearly documented. If any direct or indirect time of staff attorneys or paralegals is to be allocated as a cost to PAI, such costs must be documented by time sheets accounting for the time those employees have spent on PAI activities. The timekeeping requirement does not apply to such employees as receptionists, secretaries, intake personnel or bookkeepers; however, personnel cost allocations for non-attorney or non-paralegal staff should be based on other reasonable operating data which is clearly documented.

LASOC's cost allocation plan is general in nature and does not define specific LSC-required grant procedures, such as those imposed regarding PAI, and it is not included or referenced in LASOC's Accounting Manual. The Accounting Manual does not adequately define the procedures used to allocate costs among fund sources, and needs to be revised to adequately define the cost allocation procedures.

LASOC indicated that two new chapters have been added to the Accounting Manual including a Cost Allocation Plan and Contracting Policy.

Timekeeping - All staff are required to submit complete biweekly payroll timesheets. As stated previously, LASOC should utilize the ACMS for contemporaneous entry of all work time instead of the manual payroll timesheet which is approved biweekly by supervisors and submitted to fiscal staff each pay period.

According to LASOC, it has corrected the allocation process by exclusively using the timekeeping report generated by the ACMS to generate the allocation for direct time.

Derivative Income - 45 CFR § 1630.12 requires that derivative income resulting from an activity supported in whole or in part with funds provided by the Corporation shall be allocated to the fund in which the recipient's LSC grant is recorded in the same proportion that the amount of Corporation funds expended bears to the total amount expended by the recipient to support the activity. In addition to such items as interest income, income from functional activities supported by LSC funding (i.e., clinics, trainings, fund raising, etc.) must be recorded as derivative income.

LASOC's Accounting Manual does not appear to contain any procedures relating to the allocation of derivative income. A review of the Fiscal Year Ending January 31, 2010, Audit indicates that the program appears to have correctly attributed investment income to LSC. The LASOC process should be documented in its Accounting Manual.

In response to the DR, LASOC offered no comments on this Finding.

Internal Controls and Documentation – LASOC should use the Appendix VII Accounting Procedures & Internal Control Checklist of the Accounting Guide for LSC Recipients (2010 Ed.) as a document review checklist when completing an update of their Accounting Manual.

According to LASOC it will continue its review of the Accounting Manual and will make appropriate changes to ensure that it complies with the requirements of Appendix VII Accounting Procedures & Internal Control Checklist of Accounting Guide for LSC Recipients (2010 Ed.).

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 correct and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. See 45 CFR § 1642.3.¹⁵ However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was

¹⁵ The regulations defined "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).

lifted. Therefore, at its January 30, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees. Accordingly, effective March 15, 2010 recipients may claim, collect and retain attorneys' fees for work performed, regardless of when such work was performed.

LSC further determined that it will not take enforcement action against any recipient that filed a claim for, or collected or retained attorneys' fees during the period December 16, 2009 and March 15, 2010. Claims for, collection of, or retention of attorneys' fees prior to December 16, 2009 may, however, result in enforcement action. As well, the regulatory provisions regarding accounting for and use of attorneys' fees and acceptance of reimbursement remain in force and violation of these requirements, regardless of when they occur, may subject the recipient to compliance and enforcement action. *See* LSC Program Letters 09-3 (December 17, 2009) and 10-1 (February 18, 2010).

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

In response to the DR, LASOC offered no comments 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).

The purpose of 45 CFR Part 1612 is to ensure that LSC recipients and their employees do not engage in certain prohibited activities, including representation before legislative bodies or other direct lobbying activity, grassroots lobbying, participation in rulemaking, public demonstrations, advocacy training, and certain organizing activities. This part also provides guidance on when recipients may participate in public rulemaking or in efforts to encourage State or local governments to make funds available to support recipient activities, and when they may respond to requests of legislative and administrative officials.

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

In response to the DR, LASOC offered no comments 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.

Sampled cases reviewed 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).

In response to the DR, LASOC offered no comments on this Finding.

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

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define “class action” as a lawsuit filed as, or otherwise declared by a court of competent jurisdiction, as a class action pursuant Federal Rules of Civil Procedure, Rule 23, or comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations also define “initiating or participating in any class action” as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).¹⁶ Sampled cases reviewed evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

In response to the DR, LASOC offered no comments on this Finding.

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

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

Sampled cases reviewed evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

In response to the DR, LASOC offered no comments on this Finding.

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

Recipients are prohibited from defending any person in a proceeding to evict the person from a public housing project if the person has been charged with, or has been convicted of, the illegal sale, distribution, manufacture, or possession with intent to distribute a controlled substance, and the eviction is brought by a public housing agency on the basis that the illegal activity threatens

¹⁶ 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).

the health or safety or other resident tenants, or employees of the public housing agency. *See* 45 CFR § 1633.3.

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

In response to the DR, LASOC offered no comments on this Finding.

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

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

Sampled cases reviewed evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of Prisoners).

In response to the DR, LASOC offered no comments 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.¹⁷ This restriction has been contained in all subsequent appropriations acts. This restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1: "This part is designed to ensure that recipients and their employees do not solicit clients."

Sampled cases reviewed evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

In response to the DR, LASOC offered no comments on this Finding.

¹⁷ *See* Section 504(a)(18).

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.

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

In response to the DR, LASOC offered no comments on this Finding.

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.

Sampled cases reviewed 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)).

In response to the DR, LASOC offered no comments on this Finding.

Finding 30: Legal Genie raises potential compliance issues and, based on the complexity of the issues, requires LSC’s Office of Legal Affairs review and input.

LASOC has been an active participant in the use of technology to improve the delivery of legal services. It has been the moving force in the development of I-CAN E-file technology, an IRS authorized e-file program and I-CAN LEGAL, an on-line program which assists in completing court documents for pro per use. I-CAN can be viewed at <http://www.icandocs.org/ca/>. It is indicated on the websites for both I-CAN programs that LSC is one of the funders of their development.

LASOC began expanding on its development of ICAN-Legal, which made available a free on-line application that would assist in the completing of legal and expanding its legal and geographic range. LASOC began developing and testing an expanded application that packaged the document preparation with legal assistance from selected attorneys. This concept was feasible for LASOC to explore as they had the benefit of having the LRC in-house, which already had the LRS. The resulting program became Legal Genie. This development is self-described by the Executive Director of LASOC as follows:

Unlike other online document preparation services, when you use Legal Genie™, you are connected to one of the attorneys on our California State Bar-certified Lawyers Referral Service (LRS). Each Legal Genie™ package comes with telephone consultation(s) of up to 30 minutes each with an attorney on the LRS. The LRS attorney will review the documents you prepare on Legal Genie™, inform you of the court process and give you legal advice. Since 1985, the LRS at Legal Aid Society of Orange County has been matching individuals with lawyers who can help them with their legal problems. The LRS includes 32 referral panels covering more than 100 substantive legal areas. The panel’s attorneys are screened for qualifications, carry malpractice insurance and are in good standing with the State Bar of California.¹⁸

During the FUR information concerning Legal Genie’s new corporate structure and its services was obtained for further LSC review.

LASOC and Legal Genie share a building located at 52101 N. Tustin Avenue in Santa Ana, California. There is a sign on the inside of the building in the waiting area. The sign includes the name of LRC and under it, states “Home of the Legal Genie.”

As described by the Executive Director, the LASOC program stands apart from other on-line legal assistance programs (i.e., LEGALZOOM.com) in its comprehensive design, including such aspects as language comprehension levels. The Executive Director also recognized that, as

¹⁸ From Legal Genie (<http://www.legalgenie.com/legal-general-information/>)

currently structured and funded, and, as relevant as it is to the LASOC mission, the Legal Genie program could not be self-sustaining without expanded development and marketing.

LASOC's Board approved the Executive Director's vision of expanding the Legal Genie project by forming a separate corporation and seeking outside investors.. To that end, the Board authorized the following:

1. Expenditure of up to \$50,000 to create a Private Placement Memo ("PPM") and Subscription Agreement (legally required by the SEC);
2. Costs to incorporate Legal Genie, Inc.;
3. Notification and permission from the California Attorney General to move relevant LASOC assets to the new company (non-profit to profit);
4. A formal CEO announcement, and expenditures for a CEO consulting agreement;
5. Permission for the CEO to begin investor presentations, with any offers being presented to the LASOC Board;
6. A media press release to be prepared by the CEO; and
7. Formation of a Legal Genie Advisory Board with the LASOC Executive Director included.

LASOC's actions, as of March 8, 2012, include the incorporation of Legal Genie, Inc. as a Delaware general domestic corporation (File # 5067016) on December 2, 2011, with the sole share-holder being LASOC and the establishment of a seven (7) member board consisting of four (4) LASOC staff, including the Executive Director (as Chairman of the Board) and the Director of Finance, as well as three (3) public members: the former President of Cellular One, a Professor of Marketing at Pepperdine University, and former Exec with Western Chemical; and the CEO of Source Check LLC and an early developer of database technology. As explained by the Executive Director, it is the intention of LASOC to retain majority Board control until all investment, licensing and operating data is finalized and then to retain a minority Board position commensurate with the LASOC equity investment value thereafter, as appropriate.

LASOC has not yet executed a contract with Legal Genie for management and administrative support. The Director of the LRC, and staff members who assist users with Legal Genie and assign customers to Legal Genie attorneys, charge their time to LRS. The Executive Director charges his time to "general administrative" which includes various funding sources.

In anticipation of the possible spin-off of the Legal Genie program, LASOC, in addition to their already established accounting chart of accounts code for Legal Genie (Account 692-Legal Genie), established a separate accounting code relating to income/expenses which were attributable to the soon to be established IRS Sub Chapter C corporation (Account 693-Legal Genie II). As of March 8, 2012, there were no transfers of assets from LASOC to Legal Genie, and all income and expense was recorded in LASOC's books. All income from Legal Genie's limited operations (which is considered to be beta testing of its programs and its functionality) has been attributed to Legal Genie (LASOC operations). The Director of Finance states that all expenses attributable to Legal Genie, Inc. and its start-up are posted to Legal Genie II, charged to non-LSC funds and will either be repaid or become part of the equity position of LASOC in Legal Genie, Inc. at the time of separation.

The Chief Executive Officer (“CEO”) of Legal Genie stated that Legal Genie:

“is designed for people who do not qualify for legal aid but cannot afford the full services of an attorney. The company targets users, aged 18 to 67 years old, with annual incomes ranging from \$31,000 to \$125,000. So far, Legal Genie has amassed more than 600,000 users and the company’s modules have been accepted in more than 185 individual courts. Prices start at \$45 and goes to \$799.”

During the FUR, the OCE completed a mock Step One dissolution of marriage packet and participated in a mock consultation with a LRS Legal Genie panel attorney. The mock exercise was completed as follows: OCE was directed to log in and provide basic identifying information. OCE was required to accept Legal Genie’s five (5) page Terms and Conditions for Access and Use of Legal Genie before being able to access the service. After agreeing to these Terms and Conditions, OCE answered the questions posed by the system and had the opportunity to review the answers and make any changes deemed necessary. The information was then compiled into completed pro per pleadings. OCE then spoke with a Legal Genie attorney in the LASOC LRC. The attorney stated she frequently met Legal Genie clients at the LRC because it was a convenient location for the clients and the attorneys. The attorney advised that she frequently would review the completed Legal Genie forms online. She would then speak with the Legal Genie customer by telephone to ensure all of the pleadings were complete. The attorney next would arrange for an in-person consultation with the customer to answer legal questions.

The Legal Genie attorney introduced herself as “your Legal Genie attorney.” During the mock consultation, the attorney was very professional and knowledgeable, and provided valuable legal advice and assistance. She answered all of the legal, factual, and procedural questions, discussed specific legal options, provided a specific legal strategy, and provided legal advice based upon particular facts and circumstances. At the conclusion of the mock consultation, the documents were ready to be filed.

Legal Genie raises potential compliance issues and, based on the complexity of the issues, requires LSC’s Office of Legal Affairs to review and provide input.

In response to the DR, LASOC offered no comments on this Finding.

IV. RECOMMENDATIONS¹⁹

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

1. Have the Attorney overseeing the Hotline document the legal advice provided to the client in the ACMS rather than intake staff;

In response to the DR, LASOC indicated that the Hotline duty attorney will type in the specific legal advice on the hotline ACMS to help ensure the documented evidence of the legal advice offered to the client. According to LASOC, the duty attorney will be responsible for reviewing each case on which they provided legal advice that day

2. Consider utilizing the ACMS as the sole data recordation system for PAI direct time;

According to LASOC, it has corrected the allocation process by exclusively using the timekeeping report generated by the ACMS to generate the allocation for direct time.

3. Explore the use of a more efficient data backup method; and

4. Eliminate the use of the manual payroll timesheet.

According to LASOC, it has corrected the allocation process by exclusively using the timekeeping report generated by the ACMS to generate the allocation for direct time.

¹⁹ Items appearing in the “Recommendations” section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE’s experience, could help the program with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors. By contrast, the items listed in “Required Corrective Actions” must be addressed by the program, and will be enforced by LSC.

V. IMPLEMENTATION OF 2010 FR REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this report, LASOC has taken the following corrective action with regard to the 2010 FR:

1. LASOC has taken sufficient action designed to implement Required Corrective Action item 1;
2. LASOC has taken sufficient action designed to implement Required Corrective Action item 2;
3. LASOC has taken sufficient action designed to implement Required Corrective Action item 3;
4. LASOC has taken sufficient action designed to implement Required Corrective Action item 4;
5. LASOC has taken sufficient action designed to implement Required Corrective Action item 5;
6. LASOC has not taken sufficient action designed to implement Required Corrective Action item 6. *See* Required Corrective Action item 5 on next page;
7. LASOC has not taken sufficient action designed to implement Required Corrective Action item 7;
8. LASOC has not taken sufficient action designed to implement Required Corrective Action item 8. *See* Required Corrective Action item 4 on next page;
9. LASOC has not taken sufficient action designed to implement Required Corrective Action item 9. *See* Required Corrective Action item 1 on next page; and
10. LASOC has taken sufficient action designed to implement Required Corrective Action item 10.

V. REQUIRED CORRECTIVE ACTIONS

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

1. Develop written procedures to guide its staff in the opening of JIE cases for multiple members of one (1) family;

In response to the DR, LASOC indicated that the staff attorney responsible for overseeing the legal services provided under the JIE contract is preparing a Chapter for LASOC's Case Handling Manual that will set forth the procedure of referring, overseeing, and closing cases. The procedures set forth in the Manual will ensure that LASOC is complying with all of the appropriate requirements in the CSR Handbook (2008 Ed., as amended 2011) and LSC regulations. Incorporated in the procedures will be the requirement that a case number is given for each family member that is being assisted with legal services by JIE.

2. Ensure that Bankruptcy Clinic cases, where the client fails to meet the PAI attorney for individual assistance, are closed and reported as staff cases unless a PAI attorney provided assistance at the Hotline stage;

In response to the DR, LASOC indicated it will comply with this directive.

3. Develop written procedures to guide its staff regarding the level of documentation that is required in case files in order to sufficiently evidence the provision of legal assistance provided, and to provide a methodology for appropriate oversight of its Hotline and PAI attorneys in order to ensure cases lacking documented legal assistance are not reported to LSC in LASOC's CSR data submission, in compliance with § 5.6 of the CSR Handbook (2008 Ed., as amended 2011);

In response to the DR, LASOC indicated that the Hotline duty attorney will type in the specific legal advice provided in the Hotline ACMS to help ensure the documented evidence of the legal advice offered to the client. According to LASOC, the duty attorney will be responsible for reviewing each case on which they provided legal advice that day. LASOC indicated that the ACMS has a report for the attorneys which lists each intake they supervised with a box for the attorney to confirm they have reviewed their intakes. According to LASOC, each day hotline supervisors will monitor the confirmation boxes to see that each case has been reviewed.

4. Ensure that the closing codes selected by JIE/C&J best reflect the level of assistance provided to a client so that each case can be reported accurately to LSC in the CSRs. This could be accomplished by providing training to JIE/C&J on CSR case closing codes. Alternatively, LASOC could institute the practice of retaining primary responsibility for assigning the appropriate closing codes to all JIE/C&J cases, pursuant to CSR Handbook (2008 Ed., as amended 2011), § 6.1, Chapters VIII and

IX. As part of this new Required Corrective Action item, LASOC must develop procedures for the provision of oversight of JIE/C&J's closing code assignments or develop a methodology for review of JIE/C&J cases so that LASOC staff can accurately assess the legal assistance provided by JIE/C&J in order to assign the appropriate closing code;

In response to the DR, LASOC indicated that it will initially retain primary responsibility for assigning the appropriate closing codes. LASOC plans on training JIE and C&J staff on case closing and when they are satisfied that JIE and C&J are able to assign the proper closing codes, LASOC will give them the responsibility for assigning closing codes. Additionally, LASOC indicated that it will randomly select cases for review to ensure that closing codes are being properly assigned.

5. Provide direct oversight to all LSC-eligible PLC open cases. Cases that are dormant should be closed and deselected from LSC CSR reporting. Also, LASOC should require PLC to adopt more effective open case follow-up and oversight procedures so as to ensure that cases are completed and reported in a timely manner;

In response to the DR, LASOC indicated it will require that PLC conduct a review of all open cases and close dormant cases in a manner that would deselect the appropriate cases from future CSR reporting. Additionally, LASOC will require PLC to implement a procedure that ensures cases do not become dormant and will expand its oversight to include semi-annual review of a random sample of PLC's open cases to ensure that PLC's follow-up system on cases referred to private attorneys is effective.

6. Update its Accounting Manual to include current significant accounting processes and requirements of Appendix VII Accounting Procedures & Internal Control Checklist of the Accounting Guide for LSC Recipients (2010 Ed.);

According to LASOC, it will continue its review of the Accounting Manual and will make appropriate changes to ensure that it complies with the requirements of Appendix VII Accounting Procedures & Internal Control Checklist of Accounting Guide for LSC Recipients (2010 Ed.).

7. Revise its PAI cost allocation process to ensure that the allocation of direct time is not also allocated in the indirect cost computations; and

According to LASOC, it has corrected the allocation process by exclusively using the timekeeping report generated by the ACMS to generate the allocation for direct time.

8. Revise its Accounting Manual to adequately define the procedures used to allocate costs among fund sources.

LASOC indicated that two new chapters have been added to the Accounting Manual including a Cost Allocation Plan and Contracting Policy.

LEGAL AID
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O R A N G E & C O U N T Y
C O M M U N I T Y L E G A L S E R V I C E S
O F S O U T H E A S T L O S A N G E L E S C O U N T Y

June 21, 2012

VIA EMAIL and US MAIL

Lora M. Rath, Acting Director
Office of Compliance and Enforcement
Legal Services Corporation
3333 K. Street, NW 3rd Floor
Washington, DC 20007-3522
Email: rathl@lsc.gov

RE: Response to Follow-Up Review Draft Report, Recipient No. 805310

Dear Ms. Rath:

Enclosed is the Legal Aid Society of Orange County's (LASOC) response to the Legal Services Corporation's (LSC) Draft Report for the March 6-8, 2012 on-site Follow-up-Review ("FUR") of LASOC.

The comments are directed to the Required Corrective Actions.

If you have any questions, please feel free to contact me at (714) 571-5233 or email to bcohen@legal-aid.com.

Sincerely,



Robert J. Cohen
Executive Director

Enclosures

Corrective Actions From Compliance Team and Legal Aid Society of Orange County Actions

1. Develop written procedures to guide its staff in the opening of JIE cases for multiple members of one (1) family;

LASOC Response

LASOC will comply with this directive. The LASOC staff attorney responsible for overseeing the legal services provided under the JIE contract is preparing a Chapter for LASOC's Case Handling Manual that will set forth the procedure for referring, overseeing and closing cases. The procedures set forth in Manual will ensure that LASOC is complying with all of the appropriate requirements in the CSR Handbook (2008 Ed., as amended 2011) and LSC regulations. Incorporated in the procedures will be the requirement that JIE be given an LASOC case number for each family member that is being assisted with legal services.

2. Ensure that Bankruptcy Clinic cases, where the client fails to meet the PAI attorney for individual assistance, are closed and reported as staff cases unless a PAI attorney provided assistance at the Hotline stage;

LASOC Response

LASOC will comply with this directive.

3. Develop written procedures to guide its staff regarding the level of documentation that is required in case files in order to sufficiently evidence the provision of legal assistance provide, and to provide a methodology for appropriate oversight of its Hotline and PAI attorneys in order to ensure cases lacking documented legal assistance are not report to LSC in LASOC's CSR data submission, in compliance with §5.6 of the CSR Handbook (2008 Ed., as amended 2011);

LASOC Response

Hotline - LASOC will implement the suggestion that the duty attorney type in the specific legal advice on the hotline intake to help ensure the intake contains evidence of the legal advice offered to the client. To ensure a complete intake the duty attorney will be responsible to review each intake on which they provided advice that day. The Matrix database has a report for the attorneys to list each intake they supervised with a box for the attorney to confirm they have reviewed their intakes. Each day hotline supervisors will monitor the confirmation boxes to see that each intake has been reviewed.

In the next version of Matrix there will be a specific legal advice box in which the attorney will type notes to help that confirm specific legal advice was given. This box will be separate from the general notes section. Intakes will not be closed unless the box contains legal advice or the case is closed as services not rendered and not countable for LSC

purposes. LASOC can then run reports to confirm that legal advice was given and recorded in the specific notes section of the intake.

PAI - LASOC will conduct both a formal and informal training for PAI attorneys to ensure they understand that evidence of legal advice is required to be included in each clinic file.

Consistent with the LSC FUR on-site reviewer's recommendations, LASOC staff has implemented a review process for all clinic cases closed as PAI to ensure legal advice is included in the files.

4. Ensure that the closing codes selected by JIE/C&J best reflect the level of assistance provided to a client so that each case can be reported accurately to LSC in the CSRs. This could be accomplished by providing training to JIE/C&J on CSR case closing codes. Alternatively, LASOC could institute the practice of retaining primary responsibility for assigning the appropriate closing codes to all JIE/C&J cases, pursuant to CSR Handbook (2008 ED., as amended 2011), §6.2, Chapters VIII and IX. As part of this new Required Corrective Action item, LASOC must develop procedures for the provision of oversight of JIE/C&J's closing code assignments or develop a methodology for review of JIE/C&J's cases so that LASOC staff can accurately assess the legal assistance provided by JIE/C&J in order to assign the appropriate closing code.

LASOC Response

LASOC will implement the recommendations described above and will document the procedures as described in Response 1 above in the Case Handling Manual. Furthermore, LASOC intends to discuss this issue with JIE and C&J and will initially retain primary responsibility for assigning the appropriate closing codes. Once LASOC has trained the JIE and C&J staff on case closing codes and is satisfied that JIE and C&J are able to assign the proper closing codes, LASOC will give them the responsibility for assigning closing codes. In addition, LASOC will randomly select cases for review to ensure that closing codes are properly assigned.

5. Provide direct oversight to all LSC-eligible PLC open cases. Cases that are dormant should be closed and deselected from LSC CSR reporting. Also, LASOC should require PLC to adopt more effective open case follow-up and oversight procedures so as to ensure that cases are completed and reported in a timely manner;

LASOC Response

LASOC provided PLC a copy of this report and plans to meet with PLC to discuss the issue of dormancy. LASOC will require that PLC conduct a review of all open cases and close dormant cases in a manner that would deselect the appropriate cases from future CSR reporting. In addition, LASOC will require PLC to implement a procedure that ensures that cases do not become dormant and will expand its oversight system to include a semi-annual review of a random sample of PLC's open cases to ensure that PLC's follow-up system on cases referred to private attorneys is effective.

6. Update its Accounting Manual to include current significant accounting processes and requirements of Appendix VIII Accounting Procedures & Internal Control Checklist of the Accounting Guide for LSC Recipients (210Ed.);

LASOC Response

LASOC has begun to update its Accounting Manual in order to reflect all of the current significant accounting processes. In addition, two new chapters have been added to the Manual including a Cost Allocation Plan and Contracting Policy. LASOC will continue its review of the Manual and will make appropriate changes to ensure that it complies with the requirements of Appendix VIII Accounting Procedures & Internal Control Checklist of the Accounting Guide for LSC Recipients (210Ed.).

7. Revise its PAI cost allocation process to ensure that the allocation of direct time is not also allocated in the indirect cost computations;

LASOC Response

LASOC has corrected the allocation process by exclusively using the timekeeping report generated by the automated case management system (as recommended in the report) to generate the allocation for direct time. This process eliminates the opportunity for reporting the same time as both direct and indirect time.

8. Revise its Accounting Manual to adequately define the procedures used to allocate costs among fund sources.

LASOC Response

LASOC has incorporated its Cost Allocation Plan into the Accounting Manual. In addition the Cost Allocation Plan will be updated to reflect the PAI allocation process.