LSC

Legal Services Corporation
Office of Inspector General

Inspector General
Jeffrey E. Schanz

March 27, 2009

Ms. Devon Lomayesva
Executive Director
California Indian Legal Services
609 S. Escondido Boulevard
Escondido, CA 92025

Dear Ms. Lomayesva:

Enclosed is the Office of Inspector General's final report on the results of our audit on Selected Internal Controls at California Indian Legal Services. Your response to the draft report described actions to address Recommendations 1, 2, 3, 4, 5, 7, 8, and 9. These actions address the issues addressed in the report. However, with the exception of Recommendation 9, these actions were not complete. Therefore, Recommendations 1, 2, 3, 4, 5, 7, and 8 will remain open until the OIG is notified that management actions for each recommendation are complete. Please provide this office evidence of actions taken on each recommendation when completed. Also, please provide us with a copy of the Accounting Manual when approved and implemented.

Since all actions have been completed in regard to Recommendation 9, this recommendation is considered closed.

In your comments, you disagreed with the finding and Recommendation 6 pertaining to the allocation of costs for contractor services. This disagreement along with the associated questioned costs will be referred to LSC management for action.

In addition to referring the questioned costs associated with Recommendation 6, the questioned costs associated with Recommendations 3, 4, and 5 will also be referred to LSC management for action.

3333 K Street, NW 3rd Floor
Washington, DC 20007-3522
Phone 202.295.1660 Fax 202.337.6616
www.oig.lsc.gov

I want to thank you and your staff for the cooperation and assistance you provided us.

Sincerely,

Jeffrey E. Schanz
Inspector General

cc: <u>Legal Services Corporation</u>
Helaine Barnett, President

LEGAL SERVICES CORPORATION
OFFICE OF INSPECTOR GENERAL

REPORT ON SELECTED INTERNAL CONTROLS

CALIFORNIA INDIAN LEGAL SERVICES

RNO 705158

Report No. AU09-03

March 2009

www.oig.lsc.gov

TABLE OF CONTENTS

INTRODUCTION

In November 2007, management of the Legal Services Corporation (LSC) referred for follow-up to the Office of Inspector General (OIG) instances of internal control weakness at certain LSC grantees identified in the Government Accountability Office (GAO) Draft Report entitled, *Legal Services Corporation – Improved Internal Controls Needed in Grants Management and Oversight* or indentified in a November 13, 2007 meeting between GAO and LSC staff. The final GAO report (GAO–08–37) was published on December 28, 2007.

LSC management requested that the OIG assess whether the issues specifically identified by GAO had been corrected at each of the grantees referred to the OIG by management.

BACKGROUND

GAO assessed whether LSC's internal controls over grants management and oversight processes provide reasonable assurance that grant funds are used for their intended purposes. GAO analyzed records and interviewed LSC officials to obtain an understanding of LSC's internal control framework, including the monitoring and oversight of grantees, and performed limited reviews of internal controls and compliance at 14 grantees. GAO found control weaknesses at 9 of the 14 grantee sites it visited. These weaknesses included using LSC grant funds for expenditures with insufficient supporting documentation, and for unusual contractor arrangements, alcohol purchases, employee interest-free loans, lobbying fees, late fees, and earnest money.

OBJECTIVE

Our overall objective was to determine whether the conditions cited in the GAO report were corrected and controls were put in place by California Indian Legal Services (grantee) to detect similar situations and prevent them from recurring. In addition, we evaluated other selected financial and administrative areas relating to the GAO findings and tested the related controls to ensure that expenditures were adequately supported and allowed under the LSC Act and regulations.

SCOPE AND METHODOLOGY

To accomplish our objective we reviewed controls over the client intake process (Escondido), employee benefits and reimbursements, disbursements and internal management reporting/budgeting. To obtain an understanding of the internal controls over these areas, we reviewed grantee policies and procedures, including any manuals, guidelines, memoranda, and directives setting forth current grantee practices. We interviewed grantee officials to obtain an understanding of the internal control framework and interviewed grantee management and staff as to their knowledge and understanding of the processes in place.

We conducted fieldwork at the grantee's central administrative office located in Escondido, California. To test for the appropriateness of expenditures and the existence of adequate supporting documentation, we reviewed disbursements from a judgmentally selected sample of employee and vendor files. To assess the appropriateness of grantee expenditures, we reviewed invoices, vendor lists, and general ledger details. The appropriateness of grantee expenditures was based on the grant agreements, applicable laws and regulations, and LSC policy guidance. This review was limited in scope and was not sufficient for expressing an opinion on the entire system of grantee internal controls or compliance.

The on-site fieldwork was conducted from May 13, 2008 through May 16, 2008. Documents reviewed pertained to the period January 1, 2007 through May 13, 2008. Our work was conducted at the grantee's site and at LSC headquarters in Washington, DC.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

SCOPE LIMITATION

During the audit we encountered a scope limitation in evaluating the adequacy of internal controls. Government auditing standards require that we report any significant constraints imposed on the audit approach by information limitations.

The OIG did not have available to it the grantee's Accounting Manual. Grantee management stated that the grantee did not operate under an Accounting Manual for fiscal year 2007/2008 which includes the period of our review. Without complete documentation of the grantee's control system, we could not fully evaluate whether the internal controls were properly designed and functioning as intended.

OVERALL EVALUATION

Because an Accounting Manual was not in place, the grantee's system of internal control could not be assessed to determine if said system was adequate to protect the organization's assets or ensure that transactions were properly recorded. As such, we could not determine if adequate internal controls were in place and working as designed to prevent the use of grant funds to purchase alcohol or incur late fees as identified by GAO. Without the availability of the grantee's Accounting Manual, we were unable to fully assess the operation of controls over employee benefits and reimbursements, disbursements, and internal management reporting/budgeting.

Grantee disbursements tested were generally supported by the documentation provided; however, we did note five instances where disbursement documentation was not on file or not complete. In addition, we were unable to determine whether some of the disbursements tested were allowable and properly allocated to LSC funds and we are questioning the costs for several disbursements.

Internal controls over the client intake process in Escondido were operating in the manner expected to ensure compliance with the LSC Act and LSC regulations.

RESULTS OF AUDIT

INTERNAL CONTROLS OVER FINANCIAL MATTERS

The grantee's system of internal control over financial matters was not fully documented and could not be evaluated. As such, at the time of our review, there was no assurance that controls were in place and working as designed to protect resources and properly record transactions.

Grantee management informed us during our visit that they did not have a current Accounting Manual and that a new manual was being prepared. Management indicated that although an Accounting Manual was in effect at one time, it had become outdated and was no longer used. The Executive Director indicated that no Accounting Manual was in place for fiscal year 2007/2008 and that the grantee had a draft Accounting Manual, but it did not reflect current policies. The Executive Director further indicated that the grantee's Board of Directors approved the draft manual and that it would be finalized shortly.

In establishing an adequate internal control structure, each grantee must develop a written accounting manual that describes the specific procedures to be followed by the grantee in complying with the *Fundamental Criteria of an Accounting and Financial Reporting System* contained in LSC's Accounting Manual. While some policies were provided in memorandum form, they were not a sufficient substitute for an Accounting Manual.

Recommendation 1 -- The Executive Director should revise and update the grantee's Accounting Manual as quickly as possible to incorporate written policies and procedures describing the grantee's current accounting and fiscal practices and adhere to those practices.

Grantee Management Comments. The Executive Director stated:

> California Indian Legal Services has taken strong and deliberate steps to address this recommendation. A full time Controller with thirty years of nonprofit experience was employed by CILS on January 5, 2009. This individual has direct and specific experience in writing and updating Accounting Policies and Procedures for similar nonprofit corporations. CILS senior administrative staff has met to set priorities, assignments, and a timeline to complete this task by March 31, 2009. The current draft Table of Contents for CILS' updated Financial Policies and Procedures is attached as Exhibit A.

Evaluation of Grantee Management Comments. Grantee management's planned actions should address the issues raised in this finding. However, since the actions are not complete, this finding is considered open.

FOLLOW-UP ON GAO CONCERNS

GAO identified internal control weaknesses at this grantee dealing with the use of grant funds for alcohol purchases and late fees.

Our testing of disbursements did not disclose any specific payments using LSC funds made by the grantee for alcohol purchases or for late fees. Late fees were incurred by the grantee and initially charged to LSC funds; however, these fees were identified by the grantee and re-allocated to non-LSC funds before our on-site visit. The controller stated that the late fee activity during 2007 and 2008 were probably a result of grantee staff not paying attention to due dates.

However, because the grantee did not have an Accounting Manual fully documenting the system of internal controls, we could not determine if adequate internal controls were in place and operating as designed to prevent the future use of grant funds to purchase alcohol or incur late fees as identified by GAO.

Recommendation 2 -- The Executive Director should ensure that the new Accounting Manual includes specific controls to preclude the use of LSC funds for alcohol purchases and the payment of late fees and ensure that no LSC funds are used for these purposes.

Grantee Management Comments. The Executive Director stated:

> During the OIG Team visit in May 2008, CILS provided copies of our Expense Reimbursement Policy, prohibiting reimbursement for alcohol purchases and our Late Fees and Finance Charges Allocation Policy which ensures that such fees and charges are not charged to LSC or other restricted grants. *See attached as Exhibits B and C.* CILS, as stated above, is committed to expeditiously completing our Accounting Manual and will include the herein mentioned policies within the manual.

Evaluation of Grantee Management Comments. Grantee management's planned actions should address the issues raised in this finding. However, since the actions are not complete, this finding is considered open.

DISBURSEMENTS AND SUPPORTING DOCUMENTATION

We judgmentally selected and reviewed 84 disbursements totaling $242,698 during the period January 1, 2007 through May 13, 2008. Except as noted below, the disbursements were adequately supported by the documentation provided. Nevertheless, we were unable to determine whether all the disbursements tested were allowable and properly allocated to LSC funds because we were unable to determine if the allocation system was reasonable and implemented as designed. The grantee had not fully documented the allocation process and could not provide an accurate description of the allocation process during our review. As stated above, the grantee did not have an Accounting Manual documenting its system of internal controls so we were unable to review the grantee's written policies and procedures and incorporate these into our testing. Consequently, we were only able to review the disbursements for reasonableness.

- Supporting Documentation

In five instances, documentation supporting disbursements was not on file or not complete. We identified three instances totaling $1800 involving the same vendor where adequate supporting documentation was not contained in the vendor file. Scanned copies of the supporting documentation were subsequently provided by the grantee upon our inquiry. However, while the scanned documents did support the disbursements, none of the three were annotated as approved for payment.

In addition, we identified two instances where the grantee made payments to the same staff member and did not provide adequate documentation to support the payments. The combined gross amount (including withholding) totaled $23,833.09 and was paid by two separate checks on the same day. These payments were recorded to a shared overhead account that is allocated to all funding sources. According to documents received from the grantee, LSC funds are assigned approximately 67% of all expenses charged to the shared overhead account. We could not determine why these grant funds were expended and therefore these expenditures may have been improperly allocated to LSC grant funds. Consequently, we consider the amount allocated to LSC funds to be a questioned cost within the meaning of 45 CFR § Part 1630, and will refer this issue to LSC for review in accordance with 45 CFR § 1630.7.

Recommendation 3 – The Executive Director should ensure that adequate supporting documentation is maintained on file to support all disbursements and allocations to LSC funds.

Grantee Management Comments. The Executive Director disagreed with the questioned cost and stated:

> CILS' Disbursement Policy (to be named A-400 in the new Accounting Manual) ensures that adequate supporting documentation is maintained on file to support all disbursements. Disbursements are reviewed by the AP Clerk for completeness prior to submittal to the Controller. The Controller also reviews the documentation for completeness prior to cost coding and approval for payment. Allocations to LSC funds are done on an annual basis in keeping with CILS Allocation Policy (to be named A-601 in the new Accounting Manual) which requires review and approval by the Controller, Director of Administration, and Executive Director.
>
> Regarding the three instances totaling $1800 for the same vendor, we believe that these expenses were properly approved. As explained in our cover letter, CILS went through major transitions, including moving of offices, files and staff, therefore, there were honest mistakes made. In this case, it is the unfortunate case that the approved invoices were misplaced. However, the practice and policy had been and is that this and all vendor invoices are approved before payment. Moving forward, CILS has settled into our new Principal office and with the new Controller we will be certain to minimize any such issues in the future.
>
> Regarding the two payments made to the same staff member. On December 15, 2007 two checks totaling $23,833.09 were paid to a staff member per the CILS salary incentive (also known as "Flexible Compensation") policy for staff attorneys. The policy is a written document that utilizes a set formula to determine the incentive to be disbursed. Incentives are paid once each fiscal year in November and/or December, respectively. The spreadsheet detailing the specific calculations

was not attached to the check stub in the CILS vendor file but was available. It is unclear to CILS what documents show 67% of this incentive payment being charged to LSC. A review of the master allocation spreadsheet for fiscal year 2007-08, in which the incentive payments were made, documents that LSC's share of both Attorney Salaries and Total CILS expenses were 51 percent. We therefore do not believe these payments to be questioned costs and would request that the OIG Team review such cost with CILS management if necessary.

Evaluation of Grantee Management Comments. Grantee management's planned actions in response to our recommendation should address the issues raised in this finding. However, since the actions are not complete, this finding is considered open.

In regard to the questioned cost, the flexible compensation payments are a result of the billable hours program that the grantee operates. The payments that were identified in this finding were expensed to a shared expense account that is allocated to several grantees, including LSC. The OIG believes that since the payments are a result of the billable hours program, LSC should not be charged for any amount of the flexible compensation payments. Therefore, we consider all flexible compensation payments that were charged in part to the LSC grant as questioned costs. We will refer the specific charges identified in this finding, as well as all other flexible compensation payments that have come to our attention, to LSC management as questioned costs.

As to the two payments made to the same staff member, while we were on-site grantee management represented these payments as being compensatory time payments. We requested that grantee management provide documentation to substantiate the disbursements and after our visit, management forwarded us an excel spreadsheet containing leave accrual calculations. We reviewed the grantee compensatory time accrual records and the compensatory time policy and concluded that the documentation provided by grantee management did not support the payments. Also, grantee management did not at any time provide us a copy of the salary incentive policy. We did however receive and review a Flexible Compensation Advance Request form that states flexible compensation was in reference to amounts that were billed to clients. Because charges relating to billing clients may not be charged to LSC funds, we conclude that any portion of these payments that were allocated to LSC are questioned costs and will be referred to LSC management for further review.

- Coding Errors

We noted eight instances where disbursements were not charged to the general ledger account as coded on the payment voucher. In all instances, these errors resulted in disbursements being wholly allocated to LSC funds even though they were coded to a shared account. As a result, expenses were not allocated to LSC funds in a fair and equitable manner, resulting in LSC funds being directly allocated $1,605 that had been indicated as a shared expense among the funding sources. We consider this amount to be a questioned cost within the meaning of Part 1630, and we will refer these costs to LSC for review in accordance with 45 CFR § 1630.7.

> Recommendation 4 – The Executive Director should develop controls to ensure that payment vouchers are allocated to the general ledger as approved and coded on the invoice. These controls should require periodic reviews of the general ledger for errors and require that the necessary corrections are made.
>
> Grantee Management Comments. The Executive Director stated:
>
>> Controls to ensure that payment vouchers are allocated to the general ledger as approved and coded are included in CILS Disbursement Policy (to be named A-400 in our new Accounting Manual). Coded vouchers are entered into the accounting system by the Controller. As part of the process to print checks, the AP Clerk reviews the written coding against the accounting system as part of the check printing process. In addition, once each month, the Controller prints out a complete General Ledger Detail Report and reviews each entry for accuracy, making corrections as needed.
>>
>> Specific to the discussion about the eight instances of coding errors, it should be noted that those expenses were all related to the tribal court conference. As explained to the OIG Team and now throughout this response, the charging of expenses to "Category 11" is not exclusively to LSC. The Category 11 description is used to capture time and expenses related to LSC and the State Bar of California, Legal Services Trust Fund, which we receive our IOLTA and Equal Access Fund (EAF) grants from. So there are three grants that share the costs of the Category 11 time and expenses. Because the LSC grant amount exceeds the combined amount of the IOLTA and EAF by at least four times, it is logical that LSC would be charged a larger portion during the allocation process. While it is true that the coding errors were made, ultimately, all of these expenses were entered correctly as Category 11 expenses, which are

shared between the three above mentioned grants. Based on this explanation, CILS believes that these coding errors do not rise to the level of questioned costs, as the allocation to LSC dollars was reasonable and necessary.

Evaluation of Grantee Management Comments. Grantee management's planned actions in response to our recommendation should address the issues raised in this finding. However, since the actions are not complete, this finding is considered open.

During our audit, management was unable to explain how the organization's system to allocate costs operated and we were not informed how the costs recorded as "Category 11" were allocated. In September 2008, grantee management finally provided us with a document entitled "California Indian Legal Services Allocation Methodology." The only mention of "subsets" of "Category 11" was for direct salaries "...which are used to track specific types of cases and project activities...." There was no description to suggest it was used to capture time and expenses for three grants. In the monthly allocation section of the Allocation Methodology, there is no mention of how "Category 11" is allocated. The only specific category mentioned in the monthly allocation paragraph is "Category 80" which is shared expenses and there is no methodology mentioned on how to allocate non-labor direct expenses recorded as "Category 11". During our on-site fieldwork, grantee management represented to us that direct expenses for LSC, such as those identified in this finding were recorded in "Category 11". If Category 11 is allocated in some manner, then there is no methodology to capture direct costs identified specifically with each grant.

Furthermore, in the general journal accounts provided to us by grantee management, there were no subaccounts or other identifying data that would indicate that anything other than LSC direct costs were included in Category 11. We continue to question these costs.

- Tribal Court Conference/Contractor Payments

A good financial management system is designed to prevent the incurrence of unreasonable or unnecessary expenses such as penalties or late fees. Under LSC regulation Part 1630, costs may be questioned if they are not reasonable and necessary for the performance of the grant. A cost is considered reasonable if, among other factors, "...in its nature or amount, it does not exceed that which would be incurred by a prudent person under the same or similar circumstances..." 45 CFR § 1630.3(b).

In 2007, the grantee sponsored a Tribal Court Conference. Grantee management indicated that the cost of the conference was to be shared among several funding sources. However, our review of the accounting records and the hotel bills showed that the total cost for rooms, food, and conference facilities, amounting to $39,798, was charged only to LSC funds. In addition, the grantee incurred $6,384 in charges for unused rooms for which it had contracted. Finally, the grantee paid for rooms for non-staff members.

Because the total cost for rooms, food and conference facilities was charged to LSC funds and may not have been properly allocated among funding sources; because of the penalty for unused rooms; and because rooms were paid for non-staff members, we question the full amount of conference related costs charged to LSC funds. In order to charge any portion of the conference cost to LSC funds, the grantee should demonstrate what proportion is reasonable and necessary.

We consider the conference expenditures to be questioned costs within the meaning of Part 1630, and will refer these costs to LSC for review in accordance with 45 CFR § 1630.7.

> Recommendation 5 – The Executive Director should establish procedures to ensure that costs are fairly allocated and that the rationale is fully documented for major expenditures. These procedures should include a requirement to validate that expenditures are allocated in the manner intended.
>
> Grantee Management Comments. The Executive Director stated:
>
>> CILS did document the *Allocation Methodology* process in writing and provided it to the OIG Team...by email on September 4, 2008. This process has been in place for many years and is designed to ensure that all costs are allocated fairly and adequately and that appropriate back up documentation is attached. As a result of these recommendations, CILS management will include within our new Accounting Manual, an updated *Cost Allocation Policy* that ensures costs are fairly allocated, fully documented and a requirement to validate that expenditures are allocated in the manner intended.
>>
>> Specific to the Tribal Court/Contractor Payments discussion, CILS disagrees with the calculations and conclusion reached by the OIG Team that the expenses charged to LSC are a questioned cost.
>>
>> Our review of the Pechanga Resort and Casino invoice showed that the total charges for the conference were *$61,570* of which LSC was charged $47,859 (78%) and that our unrestricted

> funds, Category 20 was charged $13,711 (22%). Therefore, LSC was not charged for the entirety of the conference and the expenses were shared as represented by CILS.
>
> The issues of the charges for unused rooms and the rooms paid by CILS for non-staff members are easily explainable and certainly reasonable and necessary. The charges for the unused rooms were due to the fact that it is not possible to predict with certainty how many rooms will be needed for a statewide conference event. The hotel requires a guarantee and we made our best estimate, unfortunately, some last minute cancellations contributed to the amount of rooms unused. This is expected to happen when putting on this size of an event, especially for the first time. Regarding CILS paying for hotel rooms for non-staff members. [sic] These persons were presenters at the conference. The presenters agreed to be a part of our conference for no stipend or honorarium, so they were given hotel rooms and travel reimbursement if they requested. In fact, some presenters did not even seek reimbursement from CILS for their travel expenses. Surely CILS cannot be expected to put on a high quality and substantive conference and expect to get reputable presenters, who are experts in their fields, and not offer to reimburse for the most basic of expenses. CILS reiterates that the costs charged to LSC for the conference were reasonable and necessary for the successful advancement of our mission to serve the California Indian community.

<u>Evaluation of Grantee Management Comments</u>. Grantee management's planned actions in response to our recommendation should address the issues raised in this finding. However, since the actions are not complete, this finding is considered open.

In addition, grantee management's comments are insufficient to establish the appropriateness of charging the costs for rooms, food and conference facilities only to LSC funds. Grantee management, for example, did not provide any information on how much of the total cost for rooms, food, and conference facilities were allocated to grants other than LSC or provide any information on the methodology used to allocate conference costs. Additionally, of the $39,798 for identified rooms, food and conference facilities, $6,384 (31.6%) of the $20,160 in room charges was paid for unused rooms and may not meet the reasonable and necessary criteria set forth in 45 CFR part 1630. Grantee management is correct in that it is not possible to predict with certainty how many rooms will be needed for a statewide conference event. The contract with the resort took this into consideration by requiring payment for unused rooms only if less than 80%

of the room nights contracted for were used. Ultimately, the grantee used only 164 (54.6%) of the 300 room nights contracted for. We also question the amount associated with the amount paid for rooms for non-staff members. Therefore, the cost for rooms, food and conference facilities identified in the finding will be forwarded to LSC management as a questioned cost.

Finally, we reiterate that during our audit fieldwork in May 2008, grantee management was unable to explain, or provide any documents describing, how the organization's system to allocate costs operated. In September 2008, grantee management provided a document entitled "California Indian Legal Services Allocation Methodology." However, this document did not fully describe how the allocation system operated.

- Allocation of Costs for Contractor Services

A review of the supporting documentation for three payments to a contractor disclosed that the payments may not have been properly allocated. The contractor provided itemized bills by line item and the exact amount billed for each funding source could be determined. Rather than allocating the exact amounts to each grant, the total bill was charged to the shared allocation account of which LSC funds receive the largest portion. By charging the entire bill to the shared allocation account, LSC funds were charged a larger portion of the contractor's cost than reasonable or necessary. Consequently, we consider the costs for bills from the contractor for 2007 and 2008, totaling $14,018.50, to be questioned costs within the meaning of Part 1630, and will refer these costs to LSC for review in accordance with 45 CFR § 1630.7.

Recommendation 6 – The Executive Director should establish controls to ensure that identifiable direct costs are allocated to the applicable funding source.

Grantee Management Comments. The Executive Director stated:

> It is the policy and practice of CILS to allocate expenditures made for accounting support. While some invoices from the accounting contractor include descriptions of work performed, this is not always the case and sometimes descriptions are incomplete. To ensure consistency in the treatment of this particular expense, the CILS allocation procedure is applied based on CILS' experience in assigning work to the contractor.
>
> Additionally, as explained elsewhere in this response, LSC is often charged a larger portion for Category 11 expenses because they are our largest grantee of the three funds included

in Category 11. Accordingly, CILS performs much more administrative and program work under our LSC grant.

Therefore, it is CILS' position that the way in which these expenses were allocated to our shared account is reasonable and necessary and that these expenses are not questioned costs. We again invite the OIG Team to engage in dialogue with CILS if further clarification is needed.

Evaluation of Grantee Management Comments. Management comments do not address the specific issue raised in the finding. Therefore, this disagreement, along with the questioned costs, will be referred to LSC management for review and action.

We note that 45 CFR § 1630.3(d) states that "Direct costs are those that can be identified specifically with a particular final cost objective, i.e., a particular grant award, project, service, or other direct activity of an organization. Costs identified specifically with grant awards are direct costs of the awards and are to be assigned directly thereto." The costs identified in this finding were specifically identified as work done in support of LSC, as well as specifically for work for other organizations. Therefore, the costs should have been assigned as direct costs since they could be identified with a particular grant award. Rather than assigning the costs as direct costs, they were assigned to the shared Category of 80 and allocated among several grants. As a result, a larger portion of the amount was charged to the LSC grant than would have been if only the expenses that were identified for LSC were recorded as a direct cost.

- Cost Allocation Process

The grantee had not fully documented the cost allocation process and did not provide an accurate description of the allocation process while we were on-site. The Executive Director and the Financial Officer stated that they could not explain the allocation process and that the allocation process was not documented. In addition, the grantee did not have an Accounting Manual, where one normally would expect to find a description of the allocation system.

Subsequent to our visit, the Executive Director provided a written description of the process. However, because the on-site portion of our audit had been completed, we were not able to test the process to determine if the controls were adequate and if the process had been properly implemented. We did perform a limited review of the allocation system when provided the written description of the system. Nevertheless, we could not fully test the system, the accuracy of the underlying data, or the general/application controls of the computer system used to accumulate and process the detailed, underlying data.

As a result, we were unable to determine if the allocation system was reasonable and implemented as designed. Unless the allocation process is fully and accurately documented and applied, there is no assurance that it is operating as intended or that the factors used are current and fair to all sources of funding.

> Recommendation 7 – The Executive Director should fully document the cost allocation process as part of its Accounting Manual. The process should include a requirement to review the factors used to allocate shared costs to ensure that the allocations are fair and in accordance with the requirements of the various funding sources.
>
> Grantee Management Comments. The Executive Director stated:
>
> > The written Allocation Methodology process (attached here as *Exhibit D)* that was provided to LSC will be further developed and then incorporated in CILS' Financial Policies and Procedures as Policy A-601.
> >
> > Before CILS responds to the specific recommendation above, it must be noted that the statements made on page 7 of the "Draft Report" under "Cost Allocation Process" are not accurate. The statement "The Executive Director and the Financial Officer stated that they could not explain the allocation process and that the allocation process was not documented" must be clarified.
> >
> > As the Executive Director, I explained that I had just begun in my position as ED in October of 2007 and was still getting acquainted with the financial policies and procedures of CILS, in addition to the enormity of other duties required by the ED. I also explained that CILS had just brought on board, only two months before the OIG visit, a part-time CFO. At no time did I say I could not explain the allocation process, but expressed that the process could be more thoroughly explained by our Contract Bookkeeper and Director of Administration because they had both been working in this area for a number of years. While I cannot speak to the accuracy of the statements made by our former CFO, she was very new to the position and had not yet grasped the workings of our financial systems and therefore it is very likely that she could not formally articulate the process. That being said, CILS did document the Allocation Methodology process and provided it .... via email on September 4, 2008, as noted above. Again, as noted in our cover letter, if any representative of the OIG would have contacted CILS for further discussion or clarification on the cost allocation process, we could have worked to clarify any confusion. Of course CILS management would be more than happy to sit down and

discuss our cost allocation methodology process at any time so that a full and adequate understanding is had by OIG.

Evaluation of Grantee Management Comments. Grantee management's planned actions in response to our recommendation should address the issues raised in this finding. However, since the actions are not complete, this finding is considered open.

During our on-site fieldwork, grantee management did not explain the allocation process. While the Executive Director provided a description of some of the categories that were used, the Director did not describe how the system operated. Also, we specifically asked during our fieldwork in May 2008 and in emails that were sent to the Executive Director subsequent to our visit, for any documentation describing the allocation system. We were not provided any documentation until September 2008. The documentation that was eventually provided was not a full description of how the system operates. For example, based on the information provided in September and our interviews while on-site, it appears that the allocation process obtains information from two different computer programs, neither of which is specifically identified in the documentation provided. As another example, grantee management comments indicate that costs collected in "Category 11" are allocated; however, the document received in September 2008, lacks any reference to how this category was allocated.

INTERNAL CONTROL REVIEW OF OTHER SELECTED AREAS

Our review of the internal controls over the client intake process in Escondido revealed that the controls are operating in a manner expected to ensure compliance with the LSC Act and LSC regulations. However, without an Accounting Manual, we were unable to adequately assess the operation of controls over employee benefits and reimbursements, disbursements and internal management reporting/budgeting.

We did note the following additional areas where internal controls could be strengthened:

- Strategic Plan

A good internal control environment includes a strategic plan with benchmarks. In establishing an adequate internal control structure, each grantee should address risk assessment including the establishment of consistent agency goals and objectives at both the entity level and at the mission level. Strategic plans support the entity-wide objectives and address resource allocations and priorities.

The grantee did not have in place a strategic plan but planned to begin working on one. The Executive Director informed us that she planned to include this item on the agenda in an upcoming board meeting. We were advised that the grantee's Board has for the past $2^{1/2}$ years focused on restructuring the program.

> Recommendation 8 -- The Executive Director should complete the grantee's strategic plan and formalize a process for achieving benchmarks.
>
> Grantee Management Comments. The Executive Director stated in part:
>
>> CILS' Board of Directors and the Executive Director have discussed the need to develop and implement a comprehensive Strategic Plan. The Board has appointed two Co-Chairpersons...who will oversee the development of the Strategic Plan Committee. The formal development of the Strategic Plan Committee will take place at the March 7, 2009 Board meeting.
>
> The full text of grantee management comments for this finding can be found at Appendix I.
>
> Evaluation of Grantee Management Comments. Grantee management's planned actions should address the issues raised in this finding. However, since the actions are not complete, this finding is considered open.

- Cost Center Budgeting

We were unable to fully assess the controls over budgeting and management reporting because the grantee did not have an Accounting Manual in effect during the period of review. However, based on the budget reports and Board minutes reviewed, the information provided would satisfy the overall requirements for budget information and monthly reporting, with one exception. The grantee does not prepare budgets or report on expenditures by geographical office. Although the offices are small, consisting of only a 2 or 3 person staff, establishing a cost center for each office would provide more precise information to management.

> Recommendation 9 – The Executive Director should consider the cost benefits, and if economically feasible, implement budget and expenditure reporting by office.
>
> Grantee Management Comments. The Executive Director stated:
>
>> CILS appreciates that this recommendation would yield valuable information for management purposes and intends to study it to determine if it would be economically feasible.

Evaluation of Grantee Management Comments. Grantee management's actions address the issues raised in this finding. This finding is considered closed.

APPENDIX I

CALIFORNIA INDIAN LEGAL SERVICES

BISHOP·ESCONDIDO·EUREKA·SACRAMENTO

Principal Office

609 S. Escondido Blvd., Escondido, CA 92025 ~ Phone: 760.746.8941 ~ Fax: 760.746.1815

www.calindian.org ~ contactCILS@calindian.org

Devon Lee Lomayesva, Executive Director

January 29, 2009

Via Email and U.S. Mail

Ronald D. Merryman,
Assistant Inspector General for Audit
Legal Services Corporation
Office of the Inspector General
3333 K Street, NW 3rd Floor
Washington, D.C. 20007-3522

Re: Response to Draft Report

Dear Mr. Merryman:

Please find enclosed California Indian Legal Services' response to the draft report on the results of the OIG's audit on Selected Internal Controls at CILS, dated December 3, 2008. Our responses in some cases also include relevant attachments for your convenience.

Due to the enormity of transition and challenges that CILS has experienced over the past few years, it would be an injustice for the organization if I were not to share with you some of these happenings and how they have impacted the internal workings of CILS. Please see the following.

In 2005, CILS' long time Executive Director left his position and an Interim ED was brought in. The search for a new ED took almost two years and that is when I came on board in October 2007. At the time I came in, staffing levels were at a minimum and plans were in the works for office relocation. In March of 2008, the principal office in Oakland was closed and then relocated to Escondido. A new field office was then opened in Sacramento in an effort to better serve our client community in that service territory. Also during March 2008 a new position, a part-time CFO was brought on Board. This new management team was immediately presented with the challenge of the OIG visit in addition to familiarizing ourselves with the workings of the program and other immediate priorities.

The draft report in many portions discusses the inability of the ED or CFO to adequately explain policies and procedures. While there were areas that management was not yet proficient in, we are confident that CILS' overall management and internal controls were and remain to be sound. CILS has a forty year history of exceptional service to our client community which speaks to our success and commitment to the provision of high caliber legal services to the underserved California Indian population.

Finally, CILS was given a list of follow up items to provide to the OIG Team. We complied with all of those requests. However, at no time did any representative of the OIG Team contact CILS for further discussion or clarification on any of those items now identified that could have been easily explained. Based on my phone conversations with Anthony Ramirez, CILS will now be given the opportunity to provide further clarification and discussion regarding the responses we have provided herein before the OIG Team decides whether or not to forward any issues to LSC management and prior to finalization of the report. Mr. Ramirez also assured me that the draft report is confidential and will not be shared with any entity outside of the OIG until it is finalized.

CILS welcomes the opportunity to provide any further information we can in order to adequately respond to these recommendations. Please feel free to contact me at 760-746-8941, ext. 119 or via email at dlomayesva@calindian.org. We look forward to hearing from you soon.

Sincerely,

CALIFORNIA INDIAN LEGAL SERVICES

Devon Lee Lomayesva
Executive Director

Enc: Exhibits A – D
cc: Anthony M. Ramirez via Email

Recommendation 1 – The Executive Director should revise and update the grantee's Accounting Manual as quickly as possible to incorporate written policies and procedures describing the grantee's current accounting and fiscal practices and adhere to those practices.

California Indian Legal Services has taken strong and deliberate steps to address this recommendation. A full time Controller with thirty years of nonprofit experience was employed by CILS on January 5, 2009. This individual has direct and specific experience in writing and updating Accounting Policies and Procedures for similar nonprofit corporations. CILS senior administrative staff has met to set priorities, assignments, and a timeline to complete this task by March 31, 2009. The current draft Table of Contents for CILS' updated Financial Policies and Procedures is attached as *Exhibit A*.

Recommendation 2 – The Executive Director should ensure that the new Accounting Manual includes specific controls to preclude the use of LSC funds for alcohol purchases and payment of late fees and ensure that no LSC funds are used for these purposes.

During the OIG Team visit in May 2008, CILS provided copies of our Expense Reimbursement Policy, prohibiting reimbursement for alcohol purchases and our Late Fees and Finance Charges Allocation Policy which ensures that such fees and charges are not charged to LSC or other restricted grants. *See attached as Exhibits B and C.* CILS, as stated above, is committed to expeditiously completing our Accounting Manual and will include the herein mentioned policies within the manual.

Recommendation 3 – The Executive Director should ensure that adequate supporting documentation is maintained on file to support all disbursements and allocations to LSC funds.

CILS' Disbursement Policy (to be named A-400 in the new Accounting Manual) ensures that adequate supporting documentation is maintained on file to support all disbursements. Disbursements are reviewed by the AP Clerk for completeness prior to submittal to the Controller. The Controller also reviews the documentation for completeness prior to cost coding and approval for payment. Allocations to LSC funds are done on an annual basis in keeping with CILS Allocation Policy (to be named A-601 in the new Accounting Manual) which requires review and approval by the Controller, Director of Administration, and Executive Director.

Regarding the three instances totaling $1800 for the same vendor, we believe that these expenses were properly approved. As explained in our cover letter, CILS went through major transitions, including moving of offices, files and staff, therefore, there were honest mistakes made. In this case, it is the unfortunate case that the approved invoices were misplaced. However, the practice and policy had been and is that this and all vendor invoices are approved before payment. Moving forward, CILS has settled into our new

Principal office and with the new Controller we will be certain to minimize any such issues in the future.

Regarding the two payments made to the same staff member. On December 15, 2007 two checks totaling $23,833.09 were paid to a staff member per the CILS salary incentive (also known as "Flexible Compensation") policy for staff attorneys. The policy is a written document that utilizes a set formula to determine the incentive to be disbursed. Incentives are paid once each fiscal year in November and/or December, respectively. The spreadsheet detailing the specific calculations was not attached to the check stub in the CILS vendor file but was available. It is unclear to CILS what documents show 67% of this incentive payment being charged to LSC. A review of the master allocation spreadsheet for fiscal year 2007-08, in which the incentive payments were made, documents that LSC's share of both Attorney Salaries and Total CILS expenses were 51%. We therefore do not believe these payments to be questioned costs and would request that the OIG Team review such cost with CILS management if necessary.

Recommendation 4 – The Executive Director should develop controls to ensure that payment vouchers are allocated to the general ledger as approved and coded on the invoice. These controls should require periodic reviews of the general ledger for errors and require that the necessary corrections are made.

Controls to ensure that payment vouchers are allocated to the general ledger as approved and coded are included in CILS Disbursement Policy (to be named A-400 in our new Accounting Manual). Coded vouchers are entered into the accounting system by the Controller. As part of the process to print checks, the AP Clerk reviews the written coding against the accounting system as part of the check printing process. In addition, once each month, the Controller prints out a complete General Ledger Detail Report and reviews each entry for accuracy, making corrections as needed.

Specific to the discussion about the eight instances of coding errors, it should be noted that those expenses were all related to the tribal court conference. As explained to the OIG Team and now throughout this response, the charging of expenses to "Category 11" is not exclusively to LSC. The Category 11 description is used to capture time and expenses related to LSC and the State Bar of California, Legal Services Trust Fund, which we receive our IOLTA and Equal Access Fund (EAF) grants from. So there are three grants that share the costs of the Category 11 time and expenses. Because the LSC grant amount exceeds the combined amount of the IOLTA and EAF by at least four times, it is logical that LSC would be charged a larger portion during the allocation process. While it is true that the coding errors were made, ultimately, all of these expenses were entered correctly as Category 11 expenses, which are shared between the three above mentioned grants. Based on this explanation, CILS believes that these coding errors do not rise to the level of questioned costs, as the allocation to LSC dollars was reasonable and necessary.

Recommendation 5 – The Executive Director should establish procedures to ensure that costs are fairly allocated and that the rationale is fully documented for major expenditures. These procedures should include a requirement to validate that expenditures are allocated in the manner intended.

CILS did document the *Allocation Methodology* process in writing and provided it to the OIG Team, via Anthony Ramirez, by email on September 4, 2008. This process has been in place for many years and is designed to ensure that all costs are allocated fairly and adequately and that appropriate back up documentation is attached. As a result of these recommendations, CILS management will include within our new Accounting Manual, an updated *Cost Allocation Policy* that ensures costs are fairly allocated, fully documented and a requirement to validate that expenditures are allocated in the manner intended.

Specific to the Tribal Court/Contractor Payments discussion, CILS disagrees with the calculations and conclusion reached by the OIG Team that the expenses charged to LSC are a questioned cost.

Our review of the Pechanga Resort and Casino invoice showed that the total charges for the conference were $61,570 of which LSC was charged $47,859 (78%) and that our unrestricted funds, Category 20 was charged $13,711 (22%). Therefore, LSC was not charged for the entirety of the conference and the expenses were shared as represented by CILS.

The issues of the charges for unused rooms and the rooms paid by CILS for non-staff members are easily explainable and certainly reasonable and necessary. The charges for the unused rooms were due to the fact that it is not possible to predict with certainty how many rooms will be needed for a statewide conference event. The hotel requires a guarantee and we made our best estimate, unfortunately, some last minute cancellations contributed to the amount of rooms unused. This is expected to happen when putting on this size of an event, especially for the first time. Regarding CILS paying for hotel rooms for non-staff members. These persons were presenters at the conference. The presenters agreed to be a part of our conference for no stipend or honorarium, so they were given hotel rooms and travel reimbursement if they requested. In fact, some presenters did not even seek reimbursement from CILS for their travel expenses. Surely CILS cannot be expected to put on a high quality and substantive conference and expect to get reputable presenters, who are experts in their fields, and not offer to reimburse for the most basic of expenses. CILS reiterates that the costs charged to LSC for the conference were reasonable and necessary for the successful advancement of our mission to serve the California Indian community.

Recommendation 6 – The Executive Director should establish controls to ensure that identifiable direct costs are allocated to the applicable funding source.

It is the policy and practice of CILS to allocate expenditures made for accounting support. While some invoices from the accounting contractor include descriptions of work performed, this is not always the case and sometimes descriptions are incomplete. To ensure consistency in the treatment of this particular expense, the CILS allocation procedure is applied based on CILS' experience in assigning work to the contractor.

Additionally, as explained elsewhere in this response, LSC is often charged a larger portion for Category 11 expenses because they are our largest grantee of the three funds included in Category 11. Accordingly, CILS performs much more administrative and program work under our LSC grant.

Therefore, it is CILS' position that the way in which these expenses were allocated to our shared account is reasonable and necessary and that these expenses are not questioned costs. We again invite the OIG Team to engage in dialogue with CILS if further clarification is needed.

Recommendation 7 – The Executive Director should fully document the cost allocation process as part of its Accounting Manual. The process should include a requirement to review the factors used to allocate shared costs to ensure that the allocations are fair and in accordance with the requirements of the various funding sources.

The written Allocation Methodology process (attached here as *Exhibit D*) that was provided to LSC will be further developed and then incorporated in CILS' Financial Policies and Procedures as Policy A-601.

Before CILS responds to the specific recommendation above, it must be noted that the statements made on page 7 of the "Draft Report" under "Cost Allocation Process" are not accurate. The statement "The Executive Director and the Financial Officer stated that they could not explain the allocation process and that the allocation process was not documented" must be clarified.

As the Executive Director, I explained that I had just begun in my position as ED in October of 2007 and was still getting acquainted with the financial policies and procedures of CILS, in addition to the enormity of other duties required by the ED. I also explained that CILS had just brought on board, only two months before the OIG visit, a part-time CFO. At no time did I say I could not explain the allocation process, but expressed that the process could be more thoroughly explained by our Contract Bookkeeper and Director of Administration because they had both been working in this area for a number of years. While I cannot speak to the accuracy of the statements made by our former CFO, she was very new to the position and had not yet grasped the workings of our financial systems and therefore it is very likely that she could not formally articulate the process. That being said, CILS did document the Allocation Methodology process and provided it to Mr. Anthony Ramirez via email on September 4, 2008, as noted above. Again, as noted in our cover letter, if any representative of the OIG would have contacted CILS for further discussion or clarification on the cost allocation process, we could have worked to clarify any confusion. Of course CILS management would be more than happy to sit down and discuss our cost allocation methodology process at any time so that a full and adequate understanding is had by OIG.

Recommendation 8 – The Executive Director should complete the grantee's strategic plan and formalize a process for achieving benchmarks.

CILS' Board of Directors and the Executive Director have discussed the need to develop and implement a comprehensive Strategic Plan. The Board has appointed two Co-Chairpersons, Patti Dixon and Molin Malicay, who will oversee the development of the Strategic Plan Committee. The formal development of the Strategic Plan Committee will take place at the March 7, 2009 Board meeting.

Noting the above goals, the Board has in fact already began the strategic planning process over the last three years as they faced major transitions for the organization; namely the departure of the long-term Executive Director, an Interim ED, and now the new ED, who has been in her position a little over one year. Changes in management and reduction in overall staff size lead the Board to start thinking about CILS' service delivery models and our organizational priorities. The excerpt below comes from *CILS' Annual Report on Program Priorities: 45 CFR 1620,* submitted to LSC in December of 2008. This except will provide a brief history of how the organization has addressed the restructuring process as well as introduce our next steps for the final development of a strategic plan.

> "During 2004, at the suggestion of the Corporation, CILS conducted a comprehensive client needs assessment to aid the Board in setting program priorities. Several methodologies were used in the needs assessment: surveys were mailed to members of the client community; the survey was posted on our website so clients could complete it online; and clients were contacted via telephone. In addition, interviews were conducted with advocate staff and members of the Board of Trustees (the majority of who are representatives from the client community). The client response rate was not high enough to provide statistically-significant results, but did provide some interesting anecdotal information to supplement the qualitative data provided by advocates and Board members. The results of the needs assessment were reviewed and discussed by the Board at our quarterly meeting on December 14, 2004. Following this review, the Board voted to reaffirm CILS' existing substantive priorities.
>
> As previously reported, in 2005 we initiated a shift away from our focus in recent years on the expansion of brief services to low-income Indians to the prioritization of comprehensive statewide projects addressing core Indian Law issues. These projects are designed to provide a range of services in areas of fundamental importance to California Indians. Projects encompass both cases and matters, including community education efforts, the development of substantive resources for internal and external use, and other focused strategies to ensure CILS effectively meets community needs. In 2005, four specific substantive areas were identified as being especially critical to the long-term health of the California Indian community and to the long-range effectiveness of CILS

advocacy on behalf of low-income Native Americans: tribal justice and governance; fiscal development and economic self-sufficiency for low-income Indians; protection for Indian families; and Indian land issues. In 2007, these projects continue to be core to CILS' services, with services focused on several key issues within these priorities: tribal court development; access to I-CAN!/Earned Income Tax Credit for working Indian families; Indian Child Welfare Act cases and related matters; and community education on the American Indian Probate Reform Act and will-drafting for Indian individuals with trust lands or other trust assets. At the close of 2007, CILS also implemented two specific priorities for representation of financially-eligible federally-recognized Indian tribes in order to effectively meet the needs of this portion of CILS' client population: the development and implementation of tribal law and policy related to fundamental tribal governance projects; and the protection of Indian families and children related to the Indian Child Welfare Act (ICWA) and tribal law and policy affecting the protection of Indian families and children".

In early 2008, CILS held a two day Board Staff Retreat focused primarily on addressing program wide priorities, as well as, project specific action items and overall client community needs. The process of planning the retreat began with a Retreat Planning Committee comprised of CILS Board members, management and attorney staff. The Committee then developed a "CILS Stakeholder Survey" in order to accumulate a portion of targeted data that would guide the agenda for the actual Board Staff Retreat. The survey was sent to all CILS staff and Board members. A copy of the survey is attached here for reference as *Exhibit E.* The surveys were then reviewed by the Committee and the data was culminated into an overall agenda for the two and one-half day retreat. The agenda is attached here for reference as *Exhibit E.*

The agenda was composed of four main parts. 1) Interaction between Board and staff, 2) Substantive discussion of program priorities, service levels and client community needs, 3) targeted substantive meeting on specific legal issues of importance to the attorney staff, and 4) Board reflection and discussion on the retreat experience.

At the conclusion of the retreat it was decided that management and staff would compile the data collected during the retreat and report back to the Board. The result of these two days was a compilation of more focused and detailed program priorities and requisite service levels. Over the last year, Board and staff have evaluated the results of the retreat along with our current statement of priorities. These evaluations did lead to revision of CILS' statement of priorities to better reflect the services provided by CILS and the needs of our client community.

As is demonstrated, much time and effort on the part of the Board and staff went into making the Board Staff Retreat a productive and effective use of time aimed at improving the quality and quantity of our services and most importantly to ensure we are meeting the needs of our California tribal client community.

Recommendation 9 – The Executive Director should consider the cost benefits, and if economically feasible, implement budget and expenditure reporting by office.

CILS appreciates that this recommendation would yield valuable information for management purposes and intends to study it to determine if it would be economically feasible.

CALIFORNIA INDIAN LEGAL SERVICES
FINANCIAL POLICIES & PROCEDURES
MARCH 2009

A

CALIFORNIA INDIAN LEGAL SERVICES

BISHOP·ESCONDIDO·EUREKA·SACRAMENTO·SANTA ROSA

Central Administrative Office

609 S. Escondido Blvd., Escondido, CA 92025 · Phone: 760.746.8941 · Fax: 760.746.1815

www.calindian.org · contactCILS@calindian.org

MEMORANDUM

To: All CILS Staff
From: Devon Lee Lomayesva
Re: Expense Reimbursement Policy
Date: 1/1/08

Please be advised that is shall be the policy of CILS that no reimbursements shall be processed for the purchase of alcoholic beverages. There are no exceptions. If receipts are submitted that include purchases for alcoholic beverages, the reimbursement shall be reduced by the amount of such purchases.

If you have any questions regarding this policy, please contact me directly. Thank you for your time and attention.

B

CALIFORNIA INDIAN LEGAL SERVICES

BISHOP·ESCONDIDO·EUREKA· SANTA ROSA ·SACRAMENTO

Central Administrative Office

609 S. Escondido Blvd., Escondido, CA 92025 ~ Phone: 760.746.8941 ~ Fax: 760.746.1815

www.calindian.org ~ contactCILS@calindian.org

Devon Lee Lomayesva, Executive Director

MEMORANDUM

To: LSC Office of Inspector General Visit - May 2008 File
From: Devon Lee Lomayesva
Re: Late Fees and Finance Charges allocation policy
Date: May 13, 2008

Late fees are charged to account #693 – Late Fees and Finance Charges, class #20 – General Fund (non-shared expenses). It is now our general practice to require that these types of expenses are allocated to a non-shared account that ensures that funds from our restricted grants are not used for such expenses.

C

CALIFORNIA INDIAN LEGAL SERVICES

BISHOP·ESCONDIDO·EUREKA· SANTA ROSA ·SACRAMENTO

Central Administrative Office

609 S. Escondido Blvd., Escondido, CA 92025 ~ Phone: 760.746.8941 ~ Fax: 760.746.1815

www.calindian.org ~ contactCILS@calindian.org

Devon Lee Lomayesva, Executive Director

MEMORANDUM

To: LSC Office of Inspector General Visit - May 2008 File
From: Devon Lee Lomayesva
Re: Late Fees and Finance Charges allocation policy
Date: May 13, 2008

Late fees are charged to account #693 – Late Fees and Finance Charges, class #20 – General Fund (non-shared expenses). It is now our general practice to require that these types of expenses are allocated to a non-shared account that ensures that funds from our restricted grants are not used for such expenses.

D

CALIFORNIA INDIAN LEGAL SERVICES

BISHOP·ESCONDIDO·EUREKA·SACRAMENTO
Principal Office
609 S. Escondido Blvd., Escondido, CA 92025 ~ Phone: 760.746.8941 ~ Fax: 760.746.1815
www.calindian.org ~ contactCILS@calindian.org

CALIFORNIA INDIAN LEGAL SERVICES
ALLOCATION METHODOLOGY

California Indian Legal Services allocates expenses based on direct and indirect (shared) expenses.

Currently, CILS maintains the following separately tracked income and expense categories

Category 11– Funds subject to LSC restrictions: (income & expense recording)

Category 12 – Basic Field LSC grant (for income recording)

Category 14 – Statewide Website LSC TIG grant #04429 (income & expense recording)

Category 16 – Indian Legal Web LSC TIG grant #04529 (income & expense recording)

Category 20– tribal funds not subject to LSC restrictions per regulation 1610.4(a): (income & expense recording)

Category 2A – Third party client billing (income & expense recording)

Category 30 – Fee for service work (tribal billings) (income & expense recording)

Category 3A – AIPRA practice area for individual client wills; fee for service (income & expense recording)

Category 50 – IMAAA direct expenses (funding from Inyo Mono Area Agency on Aging) (income & expense recording)

Category 60 – Eastern Sierra Legal Assistance Project Expenses (LSC Basic Field grant) (expense recording)

Category 70 – IOLTA (primarily income recording)

Category 71 – Equal Access (primarily income recording)

Category 80 – Shared activities/expenses (LSC/IOLTA permissible) (expense recording)

SALARIES

DIRECT PAYROLL EXPENSES

Direct expenses are those expenses which are directly attributable to a particular case and/or project or program.

Direct Salaries

Attorneys - Each attorney maintains and submits detailed time records each month. The time records indicate hours spent on each case/project and the funding code associated with the case/project (which corresponds to expense categories listed above). Attorneys also report time records on category 80 hours (shared time/expense). In addition to the above listed categories, there are also "subsets" of category 11 which are used to track specific types of case and project activities, e.g., Equal Access Fund eligible activities are tracked separately.

Paralegals – same as above

Law Clerks – same as above

The time allocation "TA" spreadsheet is updated monthly and lists each attorney, paralegal and law clerk's time (hereinafter referred to as program staff) and total hours reported for the month. The category 80 (shared time) hours are subtracted from each employee's total hours. The hours for each program staff are then converted into a percentage, e.g., total hours less category 80 hours divided by the appropriate category's hours). This percentage is applied to the attorney, paralegal and law clerks' salaries on a line by line basis. This provides CILS with a total payroll figure for all program staff attributable to each category of program work.
Total hours for all program staff less the total category 80 hours divided by the total of each category's hours provide the percentage which is applied to all other shared expenses (category 80). This allocation methodology logically matches program staff time with organizational resources and expenses.

Indirect Salaries & Benefits

Indirect salaries are those salaries necessary for program and organization support.

Administrative support salaries – Each administrative employee's monthly salary is also recorded on the "TA" spreadsheet. The time percentage for each category derived from the program staff's monthly hours is applied to the total monthly administrative payroll expense. This is considered a shared expense.

Clerical support salaries – Each clerical employee's monthly salary is also recorded on the "TA" spreadsheet. The time percentage for each category derived from the program staff's monthly hours is applied to the total monthly clerical payroll expense. This is considered a shared expense.

Payroll taxes and benefits – Payroll taxes and benefits are charged to each category based on the time percentage derived for program staff.
Since program staff work on cases/projects within the various categories, there can be fluctuations from month-to-month. This allocation methodology matches administrative, clerical, payroll taxes and benefits vis-à-vis programmatic staff time.

EXPENSE CLASSIFICATIONS

As expenses are paid each month, they are coded as appropriate to each department using the chart of accounts and expense category.
When an expense can be identified as belonging to a specific category, it is coded and charged to that category. For example, when travel reimbursements are submitted for payment, they are coded to the funding category of the case/project that the travel is associated with.
Administrative and general operating expenses are generally coded as a shared expense.
However, there are some expenses which can only be charged to the unrestricted category (category 20), activities/expenses not permissible under other funding categories. e.g., mortgage interest and principal payments, certain dues and fees expenses. It's the attention to detail and understanding of the LSC guidelines that are the most important component of the coding process.

SHARED EXPENSES

For those expenses which cannot be identified as directly attributable to a specific category, e.g., office supplies (with no direct expense component), telephone, insurances, etc., these are coded as "shared expenses." A shared expense is one which is necessary and benefits each category. Generally the allocation of shared expenses is based on program staff time which is converted into a percentage and applied against the shared expenses. This is a logical application since it takes into account the fluctuating nature of program staff time.

MONTHLY ALLOCATIONS

An adjunct spreadsheet to the TA spreadsheet is prepared on a monthly basis, the monthly allocation spreadsheet. This spreadsheet lists 1) the organization's total expenses for the month on a line by line item basis: 2) the direct expenses attributable to each category; 3) the difference between a line item's total expenditures for the month less that line item's direct expenses.

The difference between total expenses less direct expenses provides the shared expenses to be allocated to each category. This can also be verified by running a report in our financial system on category 80 expenses to ensure these expenses tie out. The monthly percentage derived for program staff for each category is uniformly applied line-by-line to each balance for shared expenses. The allocation of shared expenses is reviewed periodically throughout the year and adjustments on the allocation of shared expenses are made as needed under direct supervision of the Executive Director.

The spreadsheets are prepared monthly, added together to generate quarterly reports and then a final spreadsheet which covers the entire fiscal year is built off of the monthly and quarterly data.

Finally, the shared expenses and direct expenses are added together on a line-by-line basis. This figure equates to the organization's total expenses for the year. Any revisions made to the allocations are supported by expense/time documentation, require approval by the Executive Director and any approved adjustments are updated in the allocation spreadsheet and CILS' financial system to ensure consistency.

E

CILS stakeholder survey

This survey is designed to collect input from CILS' stakeholders (Board members, staff and potentially others) on programmatic priorities and other topics related to CILS' current organizational planning work. The scope of the survey may in some instances be beyond the scope of our retreat. Your answers will help the Planning Team and all participants to understand the context for our retreat discussion about programmatic priorities.

In order to help stimulate your thinking about CILS' work, we are including here CILS' most recent Statement for Assessing Priorities and also the Firm Resume that was developed some years ago. Please note that neither document provides a complete picture of the work that CILS does do or could do, and they are included here simply to give you a starting place in thinking about the questions posed in this survey.

Survey results will be made available to all interested. Some interviews with stakeholders may follow (feel free to indicate on your survey if you have an interest in being interviewed).

Please provide your answers in this document and return them to the facilitator (spitzer@rootaction.org) by **Monday, November 5**. Advocates, you may record your time to OAK-07-BSRPC, Cat 1.

If you would like to provide additional thoughts anonymously, please send them to the facilitator. They will be shared in a way that does not identify you.

Thanks for your input. It is essential to the success of our retreat.

Name ______________________________

Position ___________________________

1. **What areas of practice and kinds of services do you believe CILS as an organization currently provides to Indians and Indian tribes in California?**

2. **What specific areas of practice and kinds of services do you believe CILS should provide to best serve Indians and Indian tribes in California? Please explain and rank your list in order of importance.**

3. **What do you believe are CILS' main organizational strengths and obstacles in doing this work?**

4. **What do you believe are the main external/environmental challenges we face and opportunities available in doing this work?**

5. **How can we develop Board/staff relationships to help us achieve CILS goals and priorities?**

6. **Please add any other thoughts you have regarding CILS' work and priorities that you would like to share at this time.**

California Indian Legal Services

Board-Staff Retreat Agenda

January 11-13, 2008
Carlsbad, CA

Friday, January 11

4:30–5:00 pm	Social hour (at meeting room)
5:00–6:30 pm	Facilitator's welcome and review of agenda for Friday Remarks from Executive Director Remarks from Board Chair Introductions Icebreaker exercise
6:30-7:15 pm	Goals for Saturday and goals for Sunday Agenda review Orientation to strategic programmatic priority setting Announcement re. dinner, Saturday morning
7:15-7:30 pm	Break
7:30-8:30 pm	"Meet your colleagues" dinner (assigned seating)

Saturday, January 12

8:00-9:00 am	**Breakfast**
9:00-9:05 am	**Introduction to the day**
9:05-10:35 am	**Fee-for-service vs. free legal services** ***Should CILS continue to do both fee-for-service and free legal services? If you decide "yes" as a group, how would you propose to improve this service delivery model? If you decide "no" as a group, propose an alternative model.*** Introduction Breaking out groups Break-out groups: 4 small-group discussions Report-backs
10:35-10:45	**Break**
10:45-11:30	**Priorities: Introduction** Summary of surveys

	Review of priority list generated from survey results Indian v. Indian and impact litigation
11:30-12:30	**Lunch**
12:30-2:10	**Priorities: individual services** ***What should CILS' current priorities be for services to individuals?*** Introduction Breaking out groups Break-out groups: 4 small-group discussions Report-backs
2:10-2:20	**Break**
2:20-3:50	**Priorities: tribal services** ***What should CILS' current priorities be for services to tribes?*** Introduction Breaking out groups Break-out groups: 4 small-group discussions Report-backs
3:50-4:00	**Break**
4:00-5:20	**Priorities: community services** ***What should CILS' current priorities be for community services?*** Introduction Breaking out groups Break-out groups: 4 small-group discussions Report-backs
5:20-6:00	**Wrap-up on priorities** Revisit any issues that did not get fully discussed earlier Raise additional priorities not mentioned already
6:00-7:00 pm	**Break**
7:00-8:00	**Social hour at Claim Jumpers (across the freeway from hotel)**
8:00-9:00 pm	**Dinner – Claim Jumpers (across the freeway from hotel)**

Sunday, January 13

8:00-9:00	**Breakfast**
9:00-10:00	**Board-staff reflection session**

- Any Board questions for staff: clarification, additional information
- What does it mean to be guided by priorities? What do priorities mean for program operations?
- Other reflection issues?

10:00-1:00 Note: working lunch will be available at the Board and staff sessions from 12-1

Board session (not an official Board meeting):
Debriefing/further discussion re. priorities
Plan re. next steps, timeframes, etc.
Board Fundraising Committee

Staff training session:
10:00- 10:30: Benchguide (Maureen and Mark)
- Overview of status of Benchguide, need for additional players to revise and circulate for comments
- Develop realistic time frame for completion
- Brief discussion of NARF ICWA Guide

10:30-11:00: SB 678 Issues (Maureen)
- Receive input from all staff on any issues arising since the enactment of SB 678
- Field questions regarding implementation and areas of concern
- Possible legislative fixes

11:00-12:00: ICWA Cases/Service Calls (Dorothy and Maureen)
- Identify ICWA cases we will handle and those we will not (develop list to share and discuss further with Devon)
- How do we handle/respond to calls from non-attorneys, attorneys, social workers, health clinic staff, or bench officers to questions regarding ICWA implementation, requests for work product, etc.

12:00-12:15: BREAK

12:15 - 12:50: Federal Tort Claims/Membership Issues (Dorothy and Mark)
- Overview of issues – CILS case, new Iowa case, potential misrepresentation, ICWA worker liability
- Development of CILS program-wide policy on case file documentation for all ICWA cases

- Necessary tribal resolution language for all ICWA cases handled by CILS

12:50-1:00: Miscellaneous ICWA issues (All Staff)

* *Agenda items for discussion may take less than time than indicated. If that is the case we will work through each item as listed. Devon will be joining us at noon to discuss the FTCA issues. I will be asking for a volunteer to take notes to produce a memo for our review post-meeting. Thank you for your assistance.*