

GAO

Report to the Ranking Member,
Committee on Finance, U.S. Senate

June 2010

LEGAL SERVICES CORPORATION

Improvements Needed in Controls over Grant Awards and Grantee Program Effectiveness



GAO

Accountability * Integrity * Reliability



Highlights of [GAO-10-540](#), a report to the Ranking Member, Committee on Finance, U.S. Senate

Why GAO Did This Study

The Legal Services Corporation (LSC) was created as a private, nonprofit corporation to support legal assistance for low-income individuals on civil legal matters, primarily through federal grants and is primarily funded through federal appropriations. Effective internal controls over grant awards and oversight of grantees' performance are critical to LSC's mission. GAO and the LSC Inspector General have previously reported weaknesses and made recommendations. GAO's objectives for this report were to determine the extent to which LSC (1) implemented key internal controls in awarding and overseeing grantees, (2) measured its performance, (3) evaluated staffing needs, and (4) adhered to its budget execution processes.

GAO analyzed key records and prior recommendations as well as interviewed LSC officials regarding LSC's internal control and performance frameworks, staffing, and contract processes.

What GAO Recommends

GAO makes recommendations to LSC management to improve internal controls over grant awards and oversight including such key areas as (1) documenting specific controls over the grant application review, evaluation, and approval processes, (2) implementing a tracking system for LSC's recommendations, and (3) establishing comprehensive performance measures linked to responsible offices. LSC agreed with GAO's recommendations.

[View GAO-10-540 or key components.](#)
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LEGAL SERVICES CORPORATION

Improvements Needed in Controls over Grant Awards and Grantee Program Effectiveness

What GAO Found

Although LSC's controls over reviewing and awarding grants are intended to help ensure fair and equitable consideration, they need improvement. Final award and fund decisions are documented and approved; however, LSC's grant application evaluation process and associated decisions were not documented, including key management discussions in the evaluation process. This lack of documentation of factors considered in making these decisions increases the risk that grantee application evaluation and funding decisions may not consider all key relevant information and makes it difficult to describe the basis for decisions later. In addition, LSC has no requirement for carrying out and documenting managerial review and approval of competitive grant evaluations or renewals, limiting its ability to identify gaps or incompatible data in applications. Although LSC has efforts underway to ensure it visits all grantee sites at least once every 3 years, LSC did not consistently or explicitly document the application of risk criteria when selecting which grantees to visit, complete timely site visit reports, or track the recommendations from the site visits. These weaknesses hindered LSC's ability to effectively oversee grantees.

LSC is not required to follow the Government Performance and Results Act but has developed a Strategic Directions document with some performance measures. However, these measures do not reflect all of LSC's core activities and are not linked to its two primary offices for awarding and overseeing grants. Therefore, LSC cannot effectively measure its performance in several key dimensions, such as identifying and targeting resources in addressing the most pressing civil legal needs of low-income individuals across the nation.

LSC has not systematically assessed its long-term staffing needs to achieve strategic goals and objectives, which could help ensure it has the staff capabilities needed to meet its short- and long-term goals. LSC has not consistently provided performance reviews for all of its staff, limiting opportunities to encourage high performance, identify training needs, and communicate with staff.

At times, LSC did not adhere to its budget execution process in awarding contracts supporting its key grant-making responsibilities. Because officials did not follow LSC's approval controls for two contracts and there was a breakdown in tracking funds, LSC had a budget shortfall of \$70,000 in 2009.

Missing or flawed internal controls limit LSC's ability to effectively manage its grant award and grantee performance oversight responsibilities. Although LSC has taken steps to address all 17 GAO recommendations identified in prior work, several have yet to be fully addressed. In the near term, it will be important for LSC leadership to address both current and continuing weaknesses. For the long term, LSC will need to focus on strengthening its overall system of internal controls in order to establish a solid basis for effectively accomplishing its core mission.

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United States Government Accountability Office
Washington, DC 20548

June 11, 2010

The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate

Dear Senator Grassley:

The Legal Services Corporation's (LSC) mission is to make federal funding available to support the provision of legal assistance in civil matters to low-income individuals throughout the United States. LSC pursues this mission primarily by making grants to legal service providers who serve low-income individuals otherwise unable to afford such legal assistance. Because of the recent economic recession and accompanying increase in housing foreclosures, LSC grantees' services are in high demand.

Established by charter in 1974 as a federally funded private, nonprofit corporation, LSC is dependent on federal appropriations for the vast majority of its operations. In fiscal year 2009, LSC received over 99 percent of its funding from federal appropriations—totaling \$390 million¹—and the remaining less than 1 percent (approximately \$1.7 million) from grants it received through the Department of Veterans Affairs. Since LSC pursues its mission primarily by making federally funded grants² to legal service providers, the effectiveness of LSC's controls over (1) grant awards and overall monitoring of grantee program quality, and (2) grantee compliance are key to LSC's mission. Controls over grant awards and monitoring of grantee program performance include those relied on for awarding competitive grants, encouraging competition, and developing and implementing strategies to improve grantee program quality and efficiency, including promoting and supporting enhanced and strategic

¹In fiscal year 2010, LSC's annual appropriation was \$420 million, an increase of about 7.7 percent over its fiscal year 2009 appropriation. See Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010, Pub. L. No. 111-117, div. B, 123 Stat. 3034, 3113, 3148 (Dec. 16, 2009).

²As used in this report, the term grant encompasses all of the agreements LSC uses to distribute federal funding to providers of civil legal assistance to low-income persons, and the term grantee refers to those who enter into such agreements. LSC sometimes uses contracts to distribute financial assistance. See LSC Act, 42 U.S.C. §§ 2996a(6), 2996e(a)(1)(A).

utilization of technology by LSC grantee programs to improve clients' and communities' access to services. Controls over grantee compliance include those relied on to ensure grantees' compliance with the Legal Services Corporation Act (LSC Act) and its implementing regulations,³ respond to inquiries and written complaints concerning grantees received from members of the public or Congress, and provide follow up on the referrals of findings from LSC's Office of Inspector General.

We issued two reports in 2007 that identified weaknesses in LSC's internal controls over grant awards and monitoring of program effectiveness.^{4,5} LSC has completed action on 11 recommendations. For example, LSC established an audit committee function to provide oversight to LSC's financial reporting and audit process; established a shorter time frame for issuing LSC's audited financial statements; established a comprehensive and effective continuity of operations plan program; and performed follow up on all improper or potentially improper uses of grant funds that we identified in our prior report.⁶ However, 6 out of 17 recommendations remain to be fully implemented. These include recommendations in such key LSC grant award and compliance areas as (1) developing and implementing procedures to periodically evaluate key management processes, including, at a minimum, processes for risk assessment and mitigation, internal control, and financial reporting; (2) implementing an approach for selecting grantees for internal control and compliance reviews that is founded on risk-based criteria, uses information and results from oversight and audit activities, and is consistently applied; and (3) developing and implementing policies that clearly delineate organizational roles and responsibilities for grantee oversight and monitoring, including grantee internal controls and compliance. Appendix II provides a summary of the status as of April 2010 of our prior recommendations. Further, a

³See Legal Services Corporation Act of 1974, Pub. L. No. 93-355, 88 Stat. 378 (July 25, 1974), *codified, as amended, at 42 U.S.C. §§ 2996 – 2996I* (LSC Act), and implementing regulations, *codified, as amended, at 45 C.F.R. chapter 16*.

⁴GAO, *Legal Services Corporation: Governance and Accountability Practices Need to Be Modernized and Strengthened*, [GAO-07-993](#) (Washington, D.C.: Aug. 15, 2007); and *Legal Services Corporation: Improved Internal Controls Needed in Grants Management and Oversight*, [GAO-08-37](#) (Washington, D.C.: Dec. 28, 2007).

⁵The recommendations status presented in our prior testimony, *Legal Services Corporation: Some Progress Made in Addressing Governance and Accountability Weaknesses, but Challenges Remain*, [GAO-10-194T](#) (Washington, D.C.: Oct. 27, 2009), has been updated as of April 2010.

⁶[GAO-08-37](#).

2009 LSC Inspector General audit identified questionable fiscal practices related to grants in following up on our December 2007 report.⁷

The objectives of this report are to determine the extent to which LSC

- properly implemented key internal controls in awarding grants and overseeing grantee program performance;
- measured its performance in awarding grants and overseeing⁸ grantees;
- evaluated staffing needs for grant awards management and grantee performance oversight; and
- followed appropriate budget execution processes for awarding contracts related to grants award and grantee performance and oversight.

To address the first two objectives, we interviewed current members of LSC's management and staff, staff in LSC's Office of Inspector General (OIG), and the audit firm employed by the OIG to obtain information on the functions and processes of LSC's grant awards and monitoring of grantee program performance and grantee compliance. We also reviewed LSC documentation on internal control activities related to the awarding of grants and oversight of grantee programs. In addition, we selected a probability sample of grant applications and application evaluations and compared evaluation results with instructions in LSC Grants, a computer-based grants application system. We analyzed the document setting out LSC-wide and component-specific goals and performance measures and compared this to federal guidance on performance measurement. We also observed LSC site visits at two grantees—in Indianapolis and Philadelphia. To obtain information on LSC controls for assessing staffing needs for its grants functions, we interviewed LSC management and reviewed policies and procedures. We compared LSC's staffing needs assessment processes to federal best practices in workforce planning principles.⁹ To obtain information on controls over contract approval and budget execution, we reviewed relevant policies, procedures and guidance and tested contracts.

⁷LSC, Office of Inspector General, *Response to LSC Management Referral of Grantee Program Issues Identified in the GAO Draft Report* (Washington, D.C.: Mar. 31, 2009).

⁸Overseeing grantees, as used in this report, refers to activities such as monitoring grantee program performance and grantee compliance.

⁹GAO, *Human Capital: Key Principles for Effective Strategic Workforce Planning*, [GAO-04-39](#) (Washington, D.C.: Dec. 11, 2003).

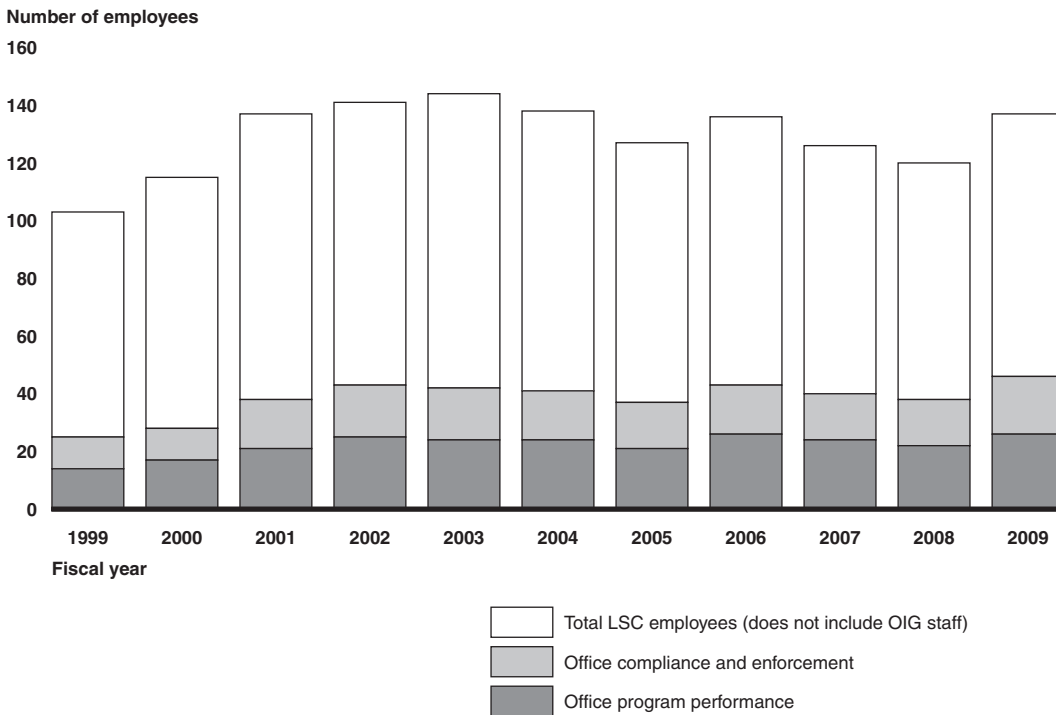
For each of our objectives we compared the information obtained with federal best practices in internal control in our *Standards for Internal Controls in the Federal Government*.¹⁰ Appendix I contains a more complete description of our scope and methodology. We conducted our work in Washington, D.C.; Indianapolis, Indiana; and Philadelphia, Pennsylvania; from March 2009 to May 2010 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. We believe the evidence obtained provided a reasonable basis for our audit findings and conclusions.

Background

LSC relies heavily on its Office of Compliance and Enforcement (OCE) and its Office of Program Performance (OPP) to carry out activities related to grant awards, grantee program effectiveness, and grantee compliance responsibilities. According to LSC officials, LSC established OCE in 1997 and OPP in 1999 to (1) help ensure compliance with requirements of the LSC Act, and (2) evaluate, fund, monitor and oversee grantee programs, including quality of services provided. Figure 1 shows staffing levels for OPP and OCE and LSC overall between 1999 and 2009.

¹⁰GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: Nov. 1999). Because LSC is not a federal agency, it is not required to follow these standards; however, adopting these standards would help LSC implement a strong internal control environment and effective control activities and monitoring in order to ensure that LSC achieves its objectives and accomplishes its mission.

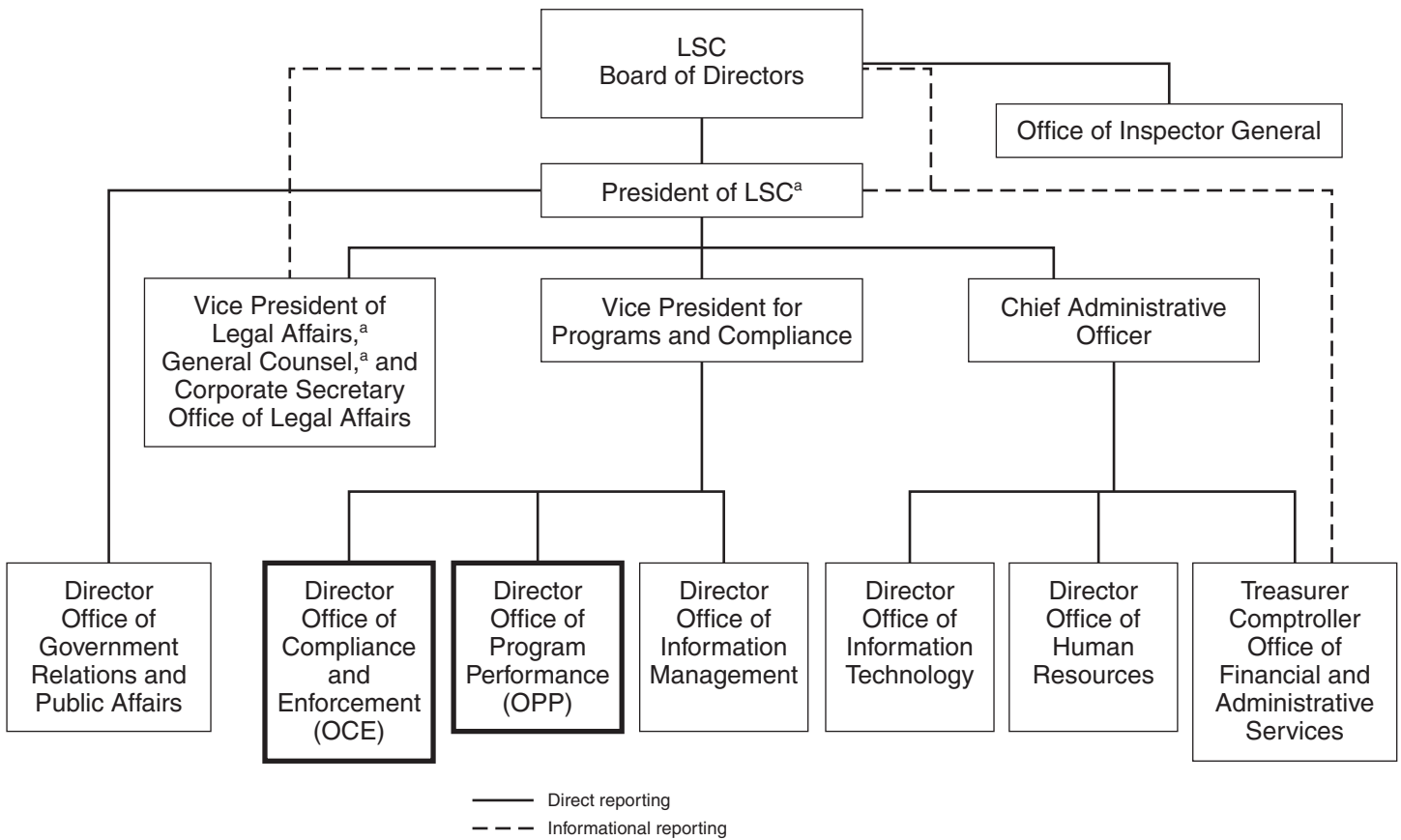
Figure 1: Comparison of OPP and OCE Staffing to Total LSC Staffing (1999 through 2009)



Source: GAO analysis of LSC policies and procedures.

As shown in figure 2, the Directors of OPP and OCE report to the Vice President for Programs and Compliance, who reports to the LSC President. LSC's President reports to an LSC board composed of 11 members. In April 2010, the 11 member board was undergoing transition, with: 1 board member continuing, 6 of the remaining 10 being sworn in during April, 2 board members awaiting to be named, and 2 others awaiting Senate confirmation.

Figure 2: LSC Organization Chart



Source: LSC.

^aThese positions are occupied by the same individual.

According to the LSC Vice President of Programs and Compliance’s goals and objectives document (LSC workplan), the Vice President for Programs and Compliance is responsible for coordinating OPP and OCE; implementing efforts to improve LSC’s oversight of grantees; assessing LSC component directors’ staffing allocations and assignments; conducting quarterly joint staff meetings and training sessions; and overseeing LSC’s internal quality agenda, including providing staff training. In accordance with the *LSC Workplan*, the Vice President for Programs and Compliance also oversees LSC’s grantee compliance and program functions, with emphasis on intra-office coordination, improved grantee guidance, and improved grantee follow-up activities by OCE and OPP.

According to LSC's policy and the 2009 OPP Procedures Manual, OPP's responsibilities include designing and administering LSC's process for awarding competitive grants, and developing and implementing strategies to improve grantee program quality.¹¹ In carrying out its responsibilities, OPP is to issue requests for proposals, guide grant applicants through the application process, and evaluate applications against performance criteria.

According to the 2008 *Roles and Responsibilities of LSC Offices Responsible for Grantee Oversight*, OCE is charged with reviewing grantees' compliance with the LSC Act and implementing regulations, responding to inquiries and written complaints concerning grantees received from members of the public or Congress, and providing follow up on the referrals of findings from LSC's Office of Inspector General.^{12,13} In carrying out its responsibilities, OCE is to conduct grantee case¹⁴ service reports and case management system site visits; review grantee compliance with the LSC accounting manual and fiscal-related regulations; review the audited financial statements of grantees; and initiate questioned-cost proceedings as necessary.¹⁵ To increase compliance, OCE is also responsible for issuing corrective action notices to grantees and for following up on corrective action plans through conducting interviews, reviewing grantee corrective action plans, and performing follow-up reviews.

¹¹These responsibilities are referred to as grant awards and monitoring of program performance in this report.

¹²These responsibilities are referred to as grantee compliance throughout this report.

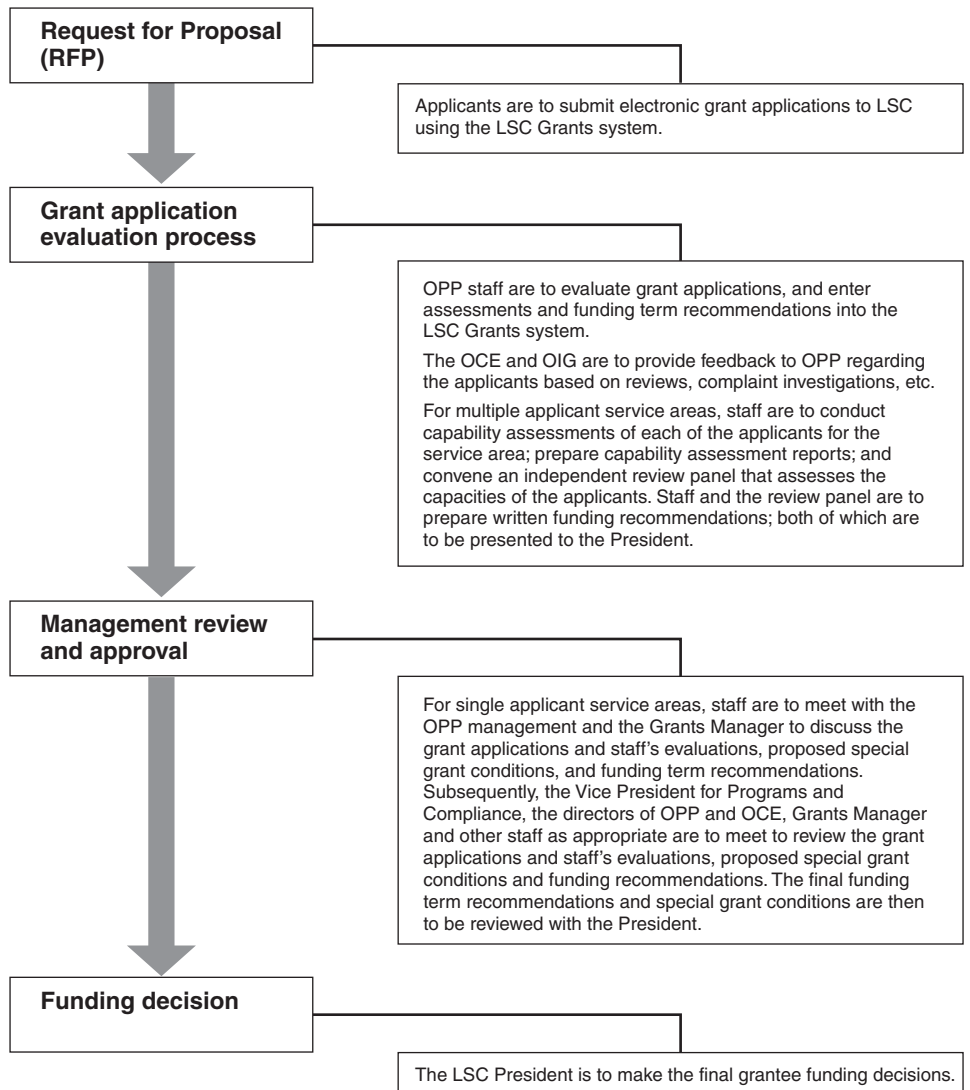
¹³According to the OCE Procedures Manual, the Grantee Audit Follow-Up process establishes a system for LSC to ensure that (1) findings and recommendations, which relate to grantee operations and are addressed to grantee management, are effectively resolved, and (2) corrective action is completed and reported in a timely manner. This is accomplished under the authority of the LSC Act; Inspector General Act of 1978, as amended; and administrative provisions that have been included in LSC's annual appropriations since fiscal year 1996.

¹⁴A case is defined as the provision of permissible legal assistance to an eligible client who has a legal problem, or set of closely related legal problems, and is accepted by a grantee for assistance in accordance with the requirements of the LSC Act, regulations, and other applicable law.

¹⁵ During the course of a grant, LSC can question, disallow, and recover the costs of an activity that violated regulations or laws, pursuant to the process set forth in LSC's implementing regulations on cost standards and procedures, which are codified at 45 C.F.R. part 1630.

Figure 3 presents an overview of LSC grant award process responsibilities as prescribed by LSC's policies and procedures.

Figure 3: Overview of the LSC Grant Award Process



Source: GAO analysis of LSC policies and procedures.

In addition, the Office of Legal Affairs (OLA) has some responsibilities with respect to LSC's grantee oversight. Specifically, according to the *Roles and Responsibilities of LSC Offices Responsible for Grantee Oversight*, OLA, headed by a Vice President of Legal Affairs who reports to

LSC's President, is responsible for providing legal services for LSC, such as interpreting statutory and regulatory authorities applicable to LSC grantees and approving contracts prior to award. OPP and OCE and other operating units seek legal counsel and information from OLA on application of relevant laws and regulations, as well as legal issues arising from oversight and enforcement activities.¹⁶

Controls over Grant Application Review and Award Process Need Improvement

LSC controls over reviewing and awarding grants are intended to help ensure the fair and equitable consideration of applicants. Recently LSC has taken action intended to improve controls in this area. For example, LSC enhanced documentation of its grant application evaluation process through its 2010 Reader Guide. In addition, the LSC grants system contains detailed application evaluation questions based on the LSC Performance Criteria, and LSC has developed training materials and provided training to OPP personnel on the application evaluation process. However, at the time of our review, we found LSC's controls over reviewing grantee applications and awarding grants were deficient in the following areas:

- documenting grant award decisions,
- carrying out and documenting management review of grant applications, and
- using automated grantee data available in the LSC Grants system.

These deficiencies increase the risk that LSC may not be considering all relevant information in a consistent manner, limit LSC's ability to explain the results of award decisions, and have resulted in incomplete and inaccurate information in the LSC grants grantee application evaluations.

¹⁶In addition, LSC grantees may directly contact OLA for advisory opinions or for legal information on the application of LSC laws and regulatory authorities. OLA internal opinions are often on topics that could be or are subject to litigation. OLA's external opinions provide the public with interpretations of LSC's requirements that apply to LSC grantees. External opinions may be requested by a grantee or LSC office as the result of a site visit where interpretation of an LSC regulation is required. At any time, LSC management or the General Counsel (GC) may determine that an opinion is not warranted or appropriate.

Grant Application Evaluations and Decisions Lacked Supporting Documentation

LSC's grant application evaluation process and basis for the resulting decisions were not clearly documented, including key management discussions in the evaluation-making process.

According to the *Standards for Internal Control in the Federal Government*,¹⁷ all significant events should be clearly documented, and readily available for examination. We found LSC procedures did not require, nor did the staff maintain, a comprehensive record documenting (1) the extent to which management held discussions and considered all available, relevant information in the grant funding decision-making process for each applicant, and (2) that a complete record of the deliberative process (*i.e.*, inputs, discussions, decisions made) was used, leading up to a grant application being funded or denied by LSC. Instead, LSC uses presentation notebooks, including multiple data sources, including grant applicant information, which are prepared for OPP staff funding recommendation presentations to OPP management and later for presentations to LSC management and the LSC President. Final grant award decisions are summarized in a chart initialed by responsible staff, LSC management and the President and individual grant award letters are certified by the LSC President.

LSC's procedures provided for documenting summaries of grantee application data. Specifically, LSC procedures required a one-page applicant overview and a two-page program summary for each applicant. OPP staff prepare the one-page applicant overview to document (1) information (such as poverty levels) about the applicant's service area,¹⁸ (2) an overall score based on the reviewer's evaluation, and (3) whether there are any special grant conditions, such as those due to prior grantee problems, including noncompliance with LSC regulations. OPP staff also prepare a two-page program summary that is to document their assessment of the grantee considering past performance as well as information in the application related to the following four performance areas:

- (1) effectiveness in identifying the most pressing civil legal needs of low-income people in the service area and targeting resources to address those needs,

¹⁷GAO/AIMD-00-21.3.1.

¹⁸A service area is the geographical area that is to be serviced by the grantee.

-
- (2) effectiveness in engaging and serving the low-income population throughout the service area,
 - (3) effectiveness of legal representation and other program activities intended to benefit the low-income population in the service area, and
 - (4) effectiveness of governance, leadership, and administration.

According to the Vice President for Programs and Compliance, while not explicitly required to do so by current LSC procedures, LSC officials also develop and use other data and analyses in addition to these two summary documents. Specifically, LSC staff prepare other relevant information and record the information in notebooks, such as the results of prior site visits. LSC staff use these notebooks to facilitate discussions with management about prospective grantee awards. However, the extent to which this other relevant information influenced award decisions was not documented.

During a part of our review, we were not able to determine the extent to which the information in any of the notebooks we obtained was used or how it was considered in the funding decisions. LSC managers held a series of meetings where funding and award decisions were discussed. Following these meetings, LSC staff prepared a funding decision chart that was initialed by the Director of OPP, Vice President for Programs and Compliance, and the LSC President to document the final funding decisions. This chart, however, does not document how the managers' consideration of various elements or relative risks contributed to the final decisions.

Therefore, this lack of documentation of the factors considered in making these decisions increases the risks that grantee application evaluation and funding decisions may not consider all key, relevant information and makes it difficult to describe the basis for decisions later.

Grant Application Evaluation Process Lacked Requirements for Managerial Review

LSC has no requirement for carrying out and documenting OPP Director managerial review and approval of competitive grant¹⁹ evaluations or renewals by the OPP primary staff reviewers. According to the *Standards for Internal Control in the Federal Government*,²⁰ control activities, such as conducting and documenting reviews, are an integral part of an entity's stewardship of government resources and achieving effective results.

Existing LSC guidance, such as the 2010 Reader Guide, provides that each application be reviewed against specific elements (derived from the LSC Performance Criteria and the ABA Standards for the Provision of Civil Legal Aid). The Guide is used in conjunction with an automated evaluation form in LSC Grants that reviewers use to record their assessments of each grant application. However, the guidance does not provide specific steps to carry out or document management review of the application evaluation in the LSC grants system. Consequently, the OPP grant application evaluations we reviewed lacked any evidence in LSC Grants that the OPP Director had reviewed them. The OPP Director did not sign any of the evaluation forms we reviewed in the LSC grants system, a key internal control activity. Specifically we selected a probability sample of 80 grantees from a population of 140, which encompassed 57 renewal applications and 23 competitive grant applications. We found that none of the 80 (100 percent)²¹ grant files contained any documentation demonstrating that managers had reviewed and approved the OPP staffs' evaluation of the application.²² This lack of documented management review impairs LSC's ability to identify gaps or incompatible data in the applications or evaluations prior to making the grant award. We found instances where an effective OPP manager's review should have identified and corrected evaluation errors. For example, we identified 14 grant applications where the reviewer incorrectly identified projected expenses

¹⁹Beginning in 1996, the administrative provisions included each year in the acts making appropriations to LSC have required that grants be awarded through a system of competition and that LSC management issue regulations to implement this requirement. See Department of State and Related Agencies Appropriations Act, 1996, Pub. L. No. 104-134, tit. IV, § 503, 110 Stat. 1321, 1321-52 (Apr. 26, 1996); see also implementing regulations in 45 C.F.R. part 1634.

²⁰[GAO/AIMD-00-21.3.1](#).

²¹The 95 percent confidence interval is between 97 percent and 100 percent.

²²Although nine of the competitive grants application evaluations in our sample contained a manager's name in the grant application management review and sign off space, LSC's Director of OPP stated this information had been entered in error and not by a manager.

for the grant as matching the projected expenditures in another section of the application.²³

Full LSC Grants System Capabilities Not Utilized

LSC Grants is a computer-based application intended to assist LSC in data collection and review of applications submitted in response to an LSC Request for Proposal. However, because LSC's Grants system lacked basic automated controls to ensure integrity over information in the system related to its grants application evaluation process, the system's full capabilities were not utilized. The *Standards for Internal Control in the Federal Government*²⁴ provide that entities should have application controls designed to help ensure the completeness and accuracy of transactions.

Specifically, we found the data in LSC Grants was erroneous and inconsistent because the system did not have edit checks preventing the OPP staff reader from entering incomplete or incompatible data. Lacking complete and reliable grantee applicant evaluation data in LSC Grants, required LSC management to instead rely on inefficient, manual compilation and review of grantee application evaluation data in making decisions about whether to approve and fund a grantee.

Our review found 7 of the 57 (12 percent)²⁵ renewal grantees' files had input fields that were blank and required information was not included. Similarly, we found 3 of the 23 competitive grantees (13 percent)²⁶ where essential grantee evaluation data were not filled out. We also found numerous instances in both the renewal grantees, 15 out of 57 (26 percent)²⁷ and competitive grantees, 6 out of 23 (26 percent),²⁸ where grantees entered data in different parts of the grant application and the data were inconsistent. In addition, we found one grantee where the grant

²³We also found two instances where the initial application evaluation incorrectly identified the projected expenses in one section of the application as not matching the projected expenses in another section, when in fact they did match.

²⁴[GAO/AIMD-00-21.3.1](#).

²⁵The 95 percent confidence interval for this estimate is from 7 percent to 21 percent.

²⁶The 95 percent confidence interval for this estimate is from 7 percent to 28 percent.

²⁷The 95 percent confidence interval for this estimate is from 19 percent to 36 percent.

²⁸The 95 percent confidence interval for this estimate is from 14 percent to 44 percent.

was to be funded with restrictions on the length of the grant term. However, the space where the reason for this restriction was required was left blank by the OPP staff. According to LSC, the evaluation process relies on both a qualitative and substantive analysis of an applicant's proposal narrative to assess its capacity to provide high quality legal services. OPP staff's judgment inherent in the substantive evaluation cannot be flagged or assessed by information validation fields. Nonetheless, LSC acknowledged the consistency and accuracy of information within the application can be addressed. LSC management also informed us that it is reviewing the LSC grants system for improvements.

LSC's external auditor's 2008 report²⁹ identified similar issues concerning inconsistent documentation of grantee evaluations. The auditor noted incomplete data in the grants system, used prior to LSC Grants, for 12 out of 32 grantee evaluations. The auditor recommended that the Office of Program Performance establish procedures to ensure that evaluation forms are properly completed before grant awards are made.

Control Weaknesses Hinder LSC's Ability to Oversee Grantees and Ensure Compliance

While LSC recognized the importance of grantee site visits and had established overall policies and reasonable risk-based criteria to be used for such visits, it had not yet established detailed procedures on (1) conducting and documenting site visit selection, (2) timely completion of site visit reports, and (3) timely resolution of site visit recommendations and corrective actions.³⁰ Control weaknesses hampered effective grantee site visits. These control weaknesses hinder LSC's ability to effectively oversee its grantees' compliance with LSC regulations and limits its ability to ensure grantees are visited according to their relative risk levels and that any compliance issues are identified and resolved in a timely manner.

²⁹WilthumSmith and Brown, *Letter of Deficiencies LSC Corporation*, (Silver Spring, MD: Jan. 6, 2009).

³⁰OCE corrective actions are based on regulatory and statutory compliance requirements. These actions are to be addressed by the grantee and enforced by LSC. OCE recommendations are suggested effective practices, but they are not required by regulatory or statutory authorities. These recommendations are not enforced by LSC and the grantee is not required to take any actions with respect to these items. They represent suggestions or actions that in OCE staff experience, could help the grantee with topics addressed in the report or address potential issues to avoid future compliance errors. OPP recommendations are effective practices and based on the guidelines of the LSC Performance Criteria and the American Bar Association Standards. These recommendations are intended to support the high quality delivery of legal services and are not generally based on regulatory or statutory requirements.

Risk Assessment Process for Program Visits Not Documented or Consistently Applied

We observed good site visit planning techniques and interview execution in Philadelphia, Pennsylvania, and Indianapolis, Indiana. We also noted that LSC has an overall goal that provides for grantee site visits at least once every 3 years; however, LSC did not have procedures detailing how identified risks factors are to be used in a risk-based determination of which grantees should receive site visits by either OPP or OCE personnel. According to the *Standards for Internal Control in the Federal Government*,³¹ management's internal control assessment should consider identified risks and their possible effect. By not formally documenting specific procedures on how risk assessment criteria are to be used in decisions about which sites to visit, LSC does not have adequate assurance that grantees with the greatest risk of noncompliance receive priority attention and oversight.

In a prior GAO report,³² we recommended that LSC develop and implement an approach for selecting grantees for internal control and compliance reviews that is founded on risk-based criteria, uses information and results from oversight and audit activities, and is consistently applied. Although LSC has identified risk factors to consider,³³ as of April 2010 it did not yet have procedures for how each risk factor is to be applied or considered when determining which grantee sites to visit.

OPP officials told us that their program liaisons make recommendations for visits, which are reviewed by the three OPP regional teams (North, South and West). Then OPP meets as a group to discuss the teams' recommendations and make preliminary recommendations for the next year's visits. The OPP director and deputy director meet with the OPP regional teams when those recommendations are made and with all of OPP program staff to make final recommendations. After consultations with OCE, OPP's recommendations are sent to the Vice President for Program Performance and Compliance. The deputy director and director

³¹ [GAO/AIMD-00-21.3.1](#).

³² [GAO-08-37](#) p. 21.

³³ Risk factors include: date of last visit by OCE/OPP; significant program or compliance issues; complaints filed or pending against the program; results of financial statements reviews; issues identified by OIG, including audit follow-up referral information provided to OCE or other information from the OIG that is referred to management for follow-up; issues identified by OCE/OPP as part of OPP's competitive grant evaluation process; issues identified by OCE/OPP as part of the grantee's required reporting to LSC; issues identified through grantees' contacts with LSC personnel; and issues which have been identified by other entities that make funds available, such as the Department of Veterans Affairs.

approve the final list when they send it to the Vice President for Program Performance and Compliance for approval. However, we found no documentation demonstrating whether regional teams appropriately applied the risk factors, nor whether risk assessment results were summarized consistently in making the final recommendations for site visits.

OCE Site Visit Reports Have Not Been Timely

As shown in table 1, our review of all OCE site visit reports on grantee compliance, completed between October 2007 and July 2009, showed that 15 of 22 exceeded the 120 day goal set for reporting on grantee compliance. OCE's Procedures Manual provides that OCE's grantee compliance site visit final reports are to be issued within 120 days of each site visit trip's completion. According to LSC, the OCE Procedures Manual was updated in April 2008 to establish a time frame of 120 days for completing site visits. Overall, our analysis showed that the average length of time required to complete the OCE site visit reports was about 150 days.

Table 1: Timeliness of OCE Site Visit Reports

Type of report	Total completed between October 5, 2007 and July 15, 2009	Number of reports completed > 120 days	Average calendar days to complete	Number pending	Longest	Shortest	Longest pending as of July 15, 2009
Program integrity ^a	2	2	183.5	2	221	146	96
Case reviews ^b	12	11	166.7	4	299	89	264
Follow-up reviews ^c	8	2	100.5	4	266	18	131
Overall	22	15	150.2	10	299	18	264

Source: GAO Analysis of LSC data (as of July 15, 2009).

^aProgram integrity reviews, required by LSC regulations in 45 C.F.R. § 1610.8, are performed in order to ensure that grantees maintain objective integrity and independence from other organizations that engage in activities restricted by the LSC Act.

^bCase reviews refer to Case Service Report/Case Management System reviews (CSR/CMS) which assess and determine compliance by the grantees with LSC regulations and guidelines, as well as the case management and CSR reporting compliance of the grantees.

^cFollow-up reviews (FUR) are conducted when necessary to assess the extent to which grantees have implemented corrective action measures or program improvement recommendations.

Delays in formally communicating grantee site visit findings to grantees can delay grantees' resolution of any internal control weaknesses (for example, if the grantees did not inquire about prospective income during

client intake)³⁴ and legal noncompliance issues identified during the site visits. Information on any continuing or serious internal control or compliance issues can be critical in making grantee funding decisions. According to LSC, there are informal means by which LSC informs grantees of preliminary findings. For example, OCE staff generally provides grantees with technical assistance in correcting compliance matters during site visits to facilitate immediate correction. LSC officials further stated that at the end of the visit staff hold an exit conference to advise the grantee of the preliminary findings and discuss how to make the necessary corrections.

The LSC financial statement auditor also reported in 2010 that its review of OCE site visit reports found that 2009 grantee site visit reports were not issued on time, based on OCE's 120 day goal.³⁵ For example, the auditor reported that one out of the nine reports they sampled was issued 289 calendar days after the completion of fieldwork.

One of the keys to completing timely OCE site visit reports within prescribed time frames is obtaining timely OLA opinions on LSC regulations. An LSC Director told us that site visit reports are held pending receipt of any requests to OLA for a legal opinion related to a possible noncompliance issue. However, LSC did not have specific procedures defining expected time frames and for overseeing OCE receipt of OLA opinions within such time frames. As of January 28, 2010, OLA had issued 47 opinions since January 2004. The average time elapsed from the date of the request for an OLA opinion and the issuance of the opinion was approximately 200 days. Of those 47 opinions, over 50 percent (25) took longer than 120 days to issue, with an average delivery time of approximately 334 days. As of January 28, 2010, two opinions had been

³⁴ The LSC Act requires LSC to establish guidelines to insure that its grantees determine client financial eligibility based on the client's income, liquid assets, and other factors related to the client's financial inability to afford legal assistance. 42 U.S.C. § 2996f(a)(2)(B). In implementing regulations, LSC requires its grantees to adopt simple client intake forms and procedures to determine an applicant's financial eligibility based on a "reasonable inquiry regarding sources of the applicant's income, income prospects and assets." 45 C.F.R. § 1611.7. By not asking an applicant about his or her prospective income during client intake, a grantee increases its risk of providing legal assistance to an ineligible client.

³⁵ Thompson, Cobb, Bazilio and Associates, PC, *Letter of Deficiencies LSC Corporation*, (Washington, D.C.: Jan. 13, 2010).

outstanding for 721 and 603 days, respectively,³⁶ and two other reports were not complete due to a pending legal opinion on prospective income, which was issued 465 days after being requested.

LSC Did Not Track Resolution of Site Visit Recommendations for Improvement

While our review found indications that cognizant LSC components share visit reports, LSC did not require and document its process for tracking and assessing actions in response to site visit recommendations and corrective actions.³⁷ According to the *Standards for Internal Control in the Federal Government*,³⁸ an entity's internal control activities should include monitoring control improvement efforts. It further provides that such controls should assess the quality of performance over time and ensure the findings of audits and other reviews are promptly resolved. Over time, the trend of the number and types of findings, recommendations, and corrective actions, if analyzed and used appropriately, should provide information that could assist LSC management in determining and addressing any issues concerning the quality of grantee program performance and compliance. Consequently, the absence of required documented procedures for tracking OPP and OCE recommendations and corrective actions reduces LSC's assurance that site visit results information is monitored for necessary corrective action and appropriately shared among cognizant LSC component organizations.

According to an OIG manager and the OPP and OCE Directors, OPP and OCE share information on site visit recommendations through the LSC intranet—where site visit reports are posted. Although not required by LSC procedures, according to an LSC Director, OCE submitted site visit reports on grantee compliance—including recommendations and needed corrective actions—to OPP staff responsible for grant awards and monitoring of grantee program performance. According to LSC's President, OPP staff are in regular contact with grantee executive

³⁶The delays were primarily due to OLA staff workload, lengthy periods of discussion at the request of LSC's executive team as directed by the Opinions Protocol of 2005, and management directives to temporarily cease work on Private Attorney Involvement (PAI) allocation (pending work of the LSC PAI Advisory Committee, a working group consisting of OPP and OCE staff).

³⁷OPP site reviews result in findings and recommendations, and OCE site reviews result in recommendations and corrective actions, which together are intended to improve grantee program quality and to bring the grantee into compliance.

³⁸[GAO/AIMD-00-21.3.1](#).

directors and other program management and program engagement visits are often used as a vehicle for following up on recommendations. The OCE Director told us that OPP staff provided program quality information obtained through its review of site visit reports to OCE for consideration in grantee compliance reviews. Although staff may share information about site visits, an LSC official who is responsible for monitoring program performance told us that LSC does not consider or track whether recommendations are open or closed, but rather provides the recommendations as possible best practices for grantees to consider implementing as their programs develop. Therefore, an LSC Director told us that the site visit report recommendations are not tracked for remediation purposes or for trending and analysis by LSC because these recommendations are considered best practices which may or may not be implemented. The Vice President for Program Performance and Compliance said that OPP prioritizes the recommendations included in its reports and only includes what OPP believes to be the most important recommendations. By undertaking the effort to make recommendations and prioritizing them to highlight important areas, but not tracking their completion and analyzing the results, LSC is missing an opportunity to assess the extent of progress made and leverage the value of these recommendations.

Performance Measures Could Be Better Aligned with Core Activities and Organizational Responsibilities

LSC performance measures were not aligned with LSC's core activities nor were they linked to specific offices responsible for making grant awards and monitoring grantee program performance and grantee compliance functions. Further, LSC did not have procedures in place to periodically reassess measures to ensure they are current. According to GAO's *Executive Guide: Effectively Implementing the Government Performance and Results Act*,³⁹ as a best practice, entities should assess performance to ensure that programs meet intended goals, assess the efficiency of processes, and promote continuous improvement. It further provides that performance measures should be linked directly to organizational components that have responsibility for making programs work and that routinely revisiting and updating an entity's performance measures would help ensure they are relevant in providing feedback about whether the entity is achieving its current objectives.

³⁹GAO, *Executive Guide: Effectively Implementing the Government Performance and Results Act*, [GAO/GGD-96-118](#) (Washington, D.C.: June 1996).

Performance measures that are not linked to the responsible office hinder accountability for program results, including the extent to which the LSC organizational components contribute toward LSC's mission and where improvements are needed, and limit transparency and accountability to LSC's Board on any organizational performance issues.

LSC issued a Strategic Directions plan in 2006 laying out LSC's performance measures. However, the plan's performance measures did not account for the full range of LSC's key grant awards and monitoring of grantee program performance and organizational grantee compliance responsibilities. For example, LSC's plan did not include metrics to measure performance in the following core LSC activities related to its key grant awards or monitor grantee program performance and grantee compliance with respect to:

- identifying and targeting LSC's own resources to address the most pressing civil legal needs of low-income individuals in the nation, and
- ensuring that grantees use the funding they receive to serve the low-income population throughout the nation.

In addition, not all measures in LSC's strategic plan were linked to specific LSC components. For example, LSC did not link scores on competitive grant evaluations with either OPP's or OCE's performance, even though these offices have responsibility for grantee program quality and compliance oversight. In addition, LSC did not link the performance measure number of technical assistance and training sessions conducted by LSC to the OPP organization even though OPP has organizational responsibility for such technical assistance.

Further, we found LSC did not have procedures providing for periodic reassessment of key metrics to ensure they reflect up-to-date LSC mission priorities and objectives. According to the Chief Administrative Officer, LSC has recognized that its existing performance measures should be revised and periodically reassessed to ensure they are up-to-date and have begun actions in this regard. For example, since 2006, management has been developing a performance measure to obtain current information on "timeliness and degree of resolution of OCE corrective action notices." LSC reviewed the results of a number of follow-up visits to confirm grantee resolution of OCE corrective action notices. The review found that the existing measure based on using the corrective action notices as an indicator of timeliness of resolution was insufficient. Instead, it was determined that without site visit verification of the resolution of original site visit findings the performance measure could not be reported on.

LSC Management Has Not Consistently Focused on Key Human Capital Issues

LSC's employee handbook provides overall policy direction over its human capital practices. However, we found existing procedures were flawed in several key respects concerning staffing needs assessments, evaluating performance, and providing appropriate internal control training. Specifically, LSC did not (1) systematically assess short- and long-term workload and staffing needs in relation to the corporation's strategic goals and objectives, (2) provide required performance reviews for OPP staff in 3 of the 6 years we reviewed and for OCE staff in 2 of the 6 years we evaluated, or (3) provide formal training for current and incoming staff on internal controls. *Standards for Internal Control in the Federal Government*⁴⁰ provides that all personnel are to possess and maintain a level of competence enabling them to effectively accomplish their assigned duties. In addition, *Human Capital Principles for Effective Strategic Workforce Planning*⁴¹ provides that effective staffing assessments should provide short- and long-term strategies for acquiring, developing, and retaining staff to achieve programmatic goals. Strategic human capital practices are key to ensuring that an entity (1) has the staff capabilities needed to meet short- and long-term goals, (2) can effectively address performance problems, and (3) has staff who are trained in internal controls and related sound management practices.

Our review found that LSC did not have procedures for assessing staffing needs. According to the Chief Administrative Officer and Director of Human Resources, LSC does not use mission priorities to establish staffing needs. Instead, the Vice President for Programs and Compliance said OPP and OCE consider workload needs and required staffing levels when preparing their budgets.

According to the LSC employee handbook, LSC's policy is that employee performance is to be evaluated annually at the beginning of the calendar year by the supervisor of record, based on job performance in the prior year. OPP staff stated that it is through the annual employee performance evaluation process that training needs are identified.

However, LSC did not have procedures for ensuring review of employee performance and training. For calendar years (CY) 2003 and 2005, OPP and OCE personnel did not receive annual performance evaluations, and

⁴⁰GAO/AIMD-00-21.3.1.

⁴¹GAO, *Human Capital Key Principles for Effective Strategic Workforce Planning*, GAO-04-39 (Washington, D.C.: Dec. 11, 2003).

for CY 2008 OPP personnel did not receive performance evaluations. For 2003 and 2005, the Director of OHR stated that LSC did not follow its employee performance evaluation policy for conducting the required staff evaluations in 2003 and 2005 because of concerns about the appraisal process. As a result, LSC's President suspended the appraisal process for these years. In 2008, according to the OPP director, OPP personnel did not receive appraisals because of a concern that evaluations would have to be done by a combination of people, none of whom had complete responsibility for overseeing the work throughout the year. Without the employee performance appraisals for all of its staff, LSC has limited its opportunities to encourage high performance, identify training needs, and communicate with staff.

Controls over Contract Approval and Budgetary Tracking Were Not Always Effective

Although LSC had policies requiring approval and funds availability determination before issuing contracts for its grant activities and programs, it had not established specific funds tracking procedures to ensure that necessary approvals were obtained and funds were available before awarding contracts.⁴² Lacking effective contract approval and fund availability controls, LSC is at increased risk of improper contract awards and undetected budget shortfalls.

LSC's Administrative Manual's policy requires approvals from OLA, the Comptroller, and, if the contract is over \$10,500, the President, before contract award. However, our review found that LSC did not obtain contract approvals by OLA, the Comptroller, and LSC President—a critical accountability control—for any of the nine contracts over \$10,500 issued in fiscal years 2008 and 2009. Our review of the nine contracts that exceeded the \$10,500 presidential approval threshold revealed that LSC lacked any documentation showing that the required Contract Approval Form was completed before the contracts were awarded. The LSC Chief Administrative Officer (CAO) told us that verbal approvals were given by the President for five of the contracts.⁴³ Of the remaining four contracts, one had the LSC President's approval on the contract itself (but not the

⁴²According to the LSC Administrative Manual (February 2005), the LSC Vice Presidents, CAO, and office directors are responsible for ensuring that expenditures for procurement of goods and contracts for services are within their budgetary limitations and each office should maintain a log or open file of purchase orders that are prepared for their respective offices.

⁴³All five of these contracts were with different hotels at which employees stayed for board meetings or the annual LSC conference.

contract approval form), while the remaining three LSC contracts did not have any evidence of approvals. The LSC Administrative Manual, issued in February 2005, requires review and approval of all contracts before award by (1) office directors to ensure that they are within budgetary limitations; (2) OLA for legal assurance; (3) the Comptroller to ensure the requirements of the Administrative Manual were followed and to start a purchase order; and (4) if over \$10,500, the LSC President. In accordance with the LSC Administrative Manual, a Contract Approval Form, which shows all approvals by designee signature, must be used to meet documentation requirements and be retained for all contracts awarded.

Two contracts that did not follow LSC's approval process resulted in an unplanned budgetary adjustment for fiscal year 2009. Specifically, we found two Office of Information Technology (OIT) contracts supporting grants management and administration that were not properly authorized and for which fund availability was not determined prior to contract award, which resulted in a LSC budget shortfall of over \$70,000 in fiscal year 2009.⁴⁴ According to the Director of OIT, after verbal approval by the LSC CAO, these contracts were executed by the Director of OIT without taking any action to determine that sufficient monies were available to fund the contracts, and without obtaining the required prior approval of OLA, the Comptroller, and the LSC President. LSC's Comptroller informed the Board of Directors, President, and Inspector General of OIT's overspending and asked for and received a \$70,000 internal budgetary adjustment on August 31, 2009, to transfer budgeted funds from LSC's capital expenditures account to the consulting budget.

Consistent with our findings, the LSC financial statement auditor reported in its January 2010 *Report of Deficiencies in Internal Control Over Financial Reporting and Other Matters* for 2009 that the Contract Approval Forms were not used as required by the LSC Administrative Manual, and there was no evidence of approval by OLA. The auditors recommended in January 2010 that LSC implement procedures to ensure policies for contract awards are followed.

LSC recently revised its Administrative Manual, effective October 1, 2009, to include a Contract Approval Form, with a provision that the LSC President approve all contracts over \$10,500. Further, the LSC CAO stated

⁴⁴The two contracts dealt with updating the LSC Grants system and updating information security software that helps safeguard network IT functions at LSC.

that training was provided for all administrative staff on the proper procedures to follow for processing contracts. Such training should help ensure that a Contract Approval Form accompanies all LSC contracts, and that OLA and the Comptroller both review and document approval of all contracts and sign off on the Contract Approval Form before contract execution. However, the training may be of limited value unless LSC also establishes specific, detailed procedures on the steps required to ensure that all necessary approvals and fund availability certification is carried out and documented.

Conclusions

Effective governance, accountability, and internal control are key to maintaining public trust and credibility. As such, identifying and implementing effective internal controls will assist LSC in ensuring that the federal funds LSC receives are being used efficiently and effectively.

LSC has taken actions to improve its governance and accountability practices by implementing or partially implementing all 17 of the recommendations from our August 2007⁴⁵ and December 2007⁴⁶ reports. Progress continues since our prior testimony in October 2009 as LSC has implemented two additional recommendations and continues to take actions on the remaining recommendations. However, several key recommendations related to LSC's grantee oversight responsibilities remain to be fully implemented.

The control deficiencies we identified, along with the continuing nature of several related deficiencies first identified nearly 3 years ago, are indicative of weaknesses in LSC's overall control environment. A weak control environment limits LSC's ability to effectively manage its grant award and grantee performance oversight responsibilities. As such, it will be important for the LSC President and Board of Directors to continue to set a "tone at the top" supportive of establishing and maintaining effective internal control not only by managers but also by personnel throughout the entity's program operations. In this regard, LSC would benefit from an entitywide internal control assessment, including whether the risks associated with grantee selection are effectively considered, past recommendations and corrective actions are properly tracked, and whether effective controls are in place over performance measurement,

⁴⁵ [GAO-07-993](#).

⁴⁶ [GAO-08-37](#).

performance evaluation, and contract awards. LSC could also strengthen its overall control environment by providing training to staff throughout the entity on how internal controls, when functioning as intended, are integral to the achievement of the entity's mission objectives.

In the near term, it will be important for LSC leadership to direct immediate action to address the continuing weaknesses, as well as those identified in our current review. For the long term, LSC will need to focus on monitoring the sustained commitment to an effective overall system of internal controls necessary to achieve a solid basis for effectively accomplishing its core mission of enabling the grantees to provide legal services to individuals who otherwise could not afford such services.

Recommendations for Executive Action

In order to improve key control processes over grant awards and monitoring of grantee program performance and grantee compliance, we recommend the President of LSC, and the Vice President for Programs and Compliance, take the following 17 actions:

Grant Application Processing and Award

- Develop and implement procedures to provide a complete record of all data used, discussions held, and decisions made on grant applications.
- Develop and implement procedures to carry out and document management's review and approval of the grant evaluation and award decisions.
- Conduct and document a risk-based assessment of the adequacy of internal control of the grant evaluation and award and monitoring process from the point that the Request for Proposal is created through award, and grantee selection.
- Conduct and document a cost benefit assessment of improving the effectiveness of application controls in LSC Grants such that the system's information capabilities could be utilized to a greater extent in the grantee application evaluation and decision-making process.

Grantee Oversight Activities

- Develop and implement procedures to ensure that grantee site visit selection risk criteria are consistently used and to provide for summarizing results by grantee.
- Establish and implement procedures to monitor OCE grantee site visit report completion against the 120 day time frame provided in the OCE Procedures Manual.

-
- Execute a study to determine an appropriate standard timeframe for OLA opinions to be developed and issued. Develop and implement procedures to monitor completion of OLA opinions related to OCE site visits against the target time frame for issuing opinions.
 - Develop and implement procedures to provide a centralized tracking system for LSC's recommendations to grantees identified during grantee site visits and the status of grantees' corrective actions.

Performance Management

- Develop and implement procedures to link performance measures (1) to specific offices and their core functions and activities, and (2) to LSC's strategic goals and objectives.
- Develop and implement procedures for periodically assessing performance measures to ensure they are up-to-date.

Staffing Needs Assessment

- Develop and implement procedures to provide for assessing all LSC component staffing needs in relation to LSC's strategic and strategic human capital plans.
- Develop and implement a mechanism to ensure that all LSC staff receive annual performance assessments.

Budget Controls

- Develop and implement a process to monitor contract approvals to ensure that all proposed contracts are properly approved before award.
- Develop and implement procedures for contracts at or above established policy thresholds, to ensure the LSC President provides written approval in accordance with policy before contract award.
- Develop and implement procedures to ensure budget funds are available for all contract proposals before contracts are awarded.

Internal Control Environment

- Develop and implement procedures for providing and periodically updating training for LSC management and staff on applicable internal controls necessary to effectively carry out LSC's grant award and grantee performance oversight responsibilities.
- Establish a mechanism to monitor progress in taking corrective actions to address recommendations related to improving LSC grants award, evaluation, and monitoring.

Agency Comments and Our Evaluation

We provided copies of the draft report to LSC's management for comment prior to finalizing the report. We received a written comment letter from LSC's President on behalf of LSC's management (see appendix III). In its written comments, LSC agreed with our findings and recommendations and identified specific actions it has taken and plans to take to implement these recommendations. LSC also provided technical comments which we considered and incorporated as appropriate.

As agreed with your office, unless you publicly announce the contents of this report earlier, we will not distribute it until 30 days from its date. At that time, we will send copies of the report to other appropriate congressional committees and the president of LSC. This report will also be available at no charge on the GAO Web site at <http://www.gao.gov>. If you have any questions or would like to discuss this report, please contact me at (202) 512-9095 or by e-mail at raglands@gao.gov. Major contributors to this report are listed in appendix IV.



Susan Ragland
Director
Financial Management and Assurance

Appendix I: Objectives, Scope, and Methodology

Our reporting objectives were to determine the extent to which the Legal Services Corporation (LSC)

- properly implemented key internal controls in awarding grants and overseeing grantee program performance;
- measured its performance in awarding grants and overseeing¹ grantees;
- evaluated staffing needs for grant awards management and grantee performance oversight; and
- followed appropriate budget execution processes for awarding contracts related to grants award and grantee performance and oversight.

To address the first two objectives, we interviewed current members of LSC's management and staff, staff in LSC's Office of Inspector General (OIG), and the audit firm employed by the OIG to obtain information on the functions and processes of LSC's grant awards and monitoring of grantee program performance and grantee compliance. We also reviewed LSC documentation on internal control activities related to the awarding of grants and oversight of grantee programs, including policy manuals, audit reports, and management reports.

In addition, we selected a probability sample of 80 out of 140 grantees and reviewed related grant applications and application evaluations (for the 2009 funding year), and compared evaluation results with instructions in LSC Grants, a computer-based grants application system. Results based on probability samples are subject to sampling error. The sample we drew for our review is only one of a large number of samples we might have drawn. Because different samples could have provided different estimates, we express our confidence in the precision of our particular sample results as a 95 percent confidence interval. This is the interval that would contain the actual population values for 95 percent of the samples we could have drawn. All survey estimates in this report are presented along with their margins of error.

We analyzed the document setting out LSC-wide and component-specific goals and performance measures and compared this to federal guidance on performance measurement. We also observed LSC site visits at two

¹Overseeing grantees refers to activities such as monitoring grantee program performance and grantee compliance.

grantees in Philadelphia and Indianapolis. To obtain information on LSC controls for assessing staffing needs for its grants functions, we interviewed LSC management and reviewed policies and procedures for evaluating staffing needs, training, and professional development, and reviewed relevant literature. We compared LSC's staffing needs assessment processes to federal best practices in workforce planning principles.² To obtain information on controls over contract approval and budget execution, we reviewed LSC's administrative policy and procedure manual and consolidated operating budget guidance, documented budget execution requirements, and tested contracts for proper approval. For each of our objectives, we compared the information obtained with federal best practices in internal control in GAO's *Standards for Internal Control in the Federal Government*.³ We conducted our work in Washington, D.C.; Indianapolis, Indiana; and Philadelphia, Pennsylvania, from March 2009 to May 2010 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. We believe the evidence obtained provided a reasonable basis for our audit findings and conclusions.

²GAO, *Human Capital: Key Principles for Effective Strategic Workforce Planning*, [GAO-04-39](#) (Washington, D.C.: Dec. 11, 2003).

³GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999). Because LSC is not a federal agency, it is not required to follow these standards; however, adopting these standards would help LSC implement a strong internal control environment and effective control activities and monitoring in order to ensure that LSC achieves its objectives and accomplishes its mission.

Appendix II: Prior GAO Reports Recommendation Status

Our August 2007¹ report recommendations to improve and modernize the governance processes and structure of LSC, along with our views on the status of LSC's efforts to implement these recommendations (as of March 2010), are summarized in table 2. LSC data, which we obtained and analyzed as part of our follow-up work conducted between May 2009 and March 2010, showed that the board had fully implemented five of the eight recommendations, and had taken some action on the remaining three recommendations.

Table 2: Status of August 2007 GAO Report Recommendations on Governance Practices to LSC Board of Directors

Recommendation	Status
Establish an audit committee function to provide oversight to LSC's financial reporting and audit processes, either through creating separate audit committee or by rewriting the charter of the board's finance committee.	Implemented
Establish charters for the Board of Directors and all existing committees and any newly developed committees to clearly establish committees' purposes, duties, and responsibilities.	Implemented
Establish a shorter time frame (e.g., 60 days) for issuing LSC's audited financial statements	Implemented
Establish and implement a comprehensive orientation program for new board members to include key topics such as fiduciary duties, tax law requirements, and interpretation of the financial statements.	Partially implemented ^a
Develop a plan for providing a regular training program for board members that includes providing updates or changes in LSC's operating environment and relevant governance and accountability practices.	Implemented
Establish a compensation committee function to oversee compensation matters involving LSC officers and overall compensation structure either through creating a separate compensation committee or by rewriting the charter of the board's annual performance review committee.	Implemented
Implement a periodic self-assessment of the board's, the committees', and each individual member's performance for purposes of evaluating whether improvements can be made to the board's structure and processes.	Partially implemented
Develop and implement procedures to periodically evaluate key management processes, including, at a minimum, processes for risk assessment and mitigation, internal control, and financial reporting.	Partially implemented

Source: GAO analysis of LSC data.

^aLSC has established a policy and materials for a comprehensive orientation; however, we need to evaluate whether the implementation of the orientation program is operating as intended.

Our August 2007 report recommendations to improve and modernize key management processes at LSC, along with the status of LSC's efforts to implement those recommendations (as of March 2010), are summarized in table 3.

¹GAO, *Legal Services Corporation: Governance and Accountability Practices Need to Be Modernized and Strengthened*, GAO-07-993 (Washington, D.C.: Aug. 15, 2007).

**Appendix II: Prior GAO Reports
Recommendation Status**

Table 3: Status of August 2007 GAO Report Recommendations on Management Practices to LSC Management

Recommendation	Status
Conduct and document a risk assessment and implement a corresponding risk management program that is part of a comprehensive evaluation of internal control.	Implemented
With the board's oversight, evaluate and document relevant requirements of the Sarbanes-Oxley Act of 2002 and practices of the New York Stock Exchange and American Bar Association that are used to establish a comprehensive code of conduct, including ethics and conflict-of-interest policies and procedures for employees and officers of the corporation.	Implemented
Establish a comprehensive and effective continuity of operations plan (COOP) program, including conducting a simulation to test the established program.	Implemented
Conduct an evaluation to determine whether standards issued by the Government Accounting Standards Board (GASB) should be adopted as a financial reporting standard for LSC's annual financial statements.	Implemented

Source: GAO analysis of LSC data.

Our December 2007² report recommendations to improve LSC's internal control and oversight of grantees, along with our views on the status of LSC's efforts to implement those recommendations (as of March 2010), are summarized in table 4.

²GAO, *Legal Services Corporation: Improved Internal Controls Needed in Grants Management and Oversight*, [GAO-08-37](#) (Washington, D.C.: Dec. 28, 2007).

**Appendix II: Prior GAO Reports
Recommendation Status**

Table 4: Status of December 2007 GAO Report Recommendations on Grants Management to LSC Management and Board

Recommendation	To	Status
Develop and implement policies and procedures for information sharing among the OIG, OCE, and OPP and coordination of OCE and OPP site visits.	Management	Implemented
Perform follow up on each of the improper or potentially improper uses of grant funds that GAO identified in the LSC Improved Internal Controls Needed in Grants Management and Oversight report (GAO-08-37).	Management	Implemented
Implement an approach for selecting grantees for internal control and compliance reviews that is founded on risk-based criteria, uses information and results from oversight and audit activities, and is consistently applied.	Management	Partially implemented
Implement procedures to improve the effectiveness of the current LSC fiscal compliance reviews by revising LSC current guidelines to provide <ul style="list-style-type: none"> • a direct link to the results of OPP reviews and OIG and Independent Public Accountant (IPA) audit findings, • guidance for performing follow-up on responses from grantee interviews, and • examples of fiscal and internal control review procedures that may be appropriate based on individual risk factors and circumstances at grantees. 	Management	Partially implemented
Develop and implement policies that clearly delineate organizational roles and responsibilities for grantee oversight and monitoring, including grantee internal controls and compliance.	Board	Partially implemented

Source: GAO analysis based on LSC data.

Appendix III: Comments from Legal Services Corporation



Legal Services Corporation
America's Partner For Equal Justice

May 28, 2010

Susan Ragland, Director
Financial Management and Assurance
U.S. Government Accountability Office
411 G Street, N.W.
Washington, D.C. 20542

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Louisville, KY

Thomas R. Meites
Chicago, IL

Laurie Mikva
Evanston, IL

Hon. Sarah M. Singleton
Santa Fe, NM

Dear Ms. Ragland:

Thank you for giving the Legal Services Corporation (“LSC” or “Corporation”) the opportunity to respond to the GAO Draft Report entitled *Improvements Needed in Controls Over Grant Awards and Grant Program Effectiveness*, GAO-10-540. Previous GAO reports have led to improvements at LSC and we are confident that will be the case once again. We offer the following comments in response to the 17 recommendations in the Draft Report.

As noted in the Draft Report, LSC operates as an independent 501(c)(3) nonprofit corporation that is funded by Congress. The Corporation distributes those annual appropriations to 136 independent nonprofit legal services programs across the nation and they provide civil legal assistance and information to low-income Americans who qualify for assistance. These local legal services providers are critical to the well-being of the nation, especially as demand for legal services increases during economic downturns. Currently, 54 million Americans — one-sixth of the population — qualify for LSC-funded civil legal assistance.

Congress has directed by law that grants from LSC’s basic field line be allocated to provide “an equal figure per individual in poverty for all geographic areas, as determined on the basis of the most recent decennial census.”¹ The private nonprofit legal services programs funded by LSC operate independently from LSC and are governed by local boards of directors that set priorities for addressing the urgent civil legal needs of their communities. The Corporation’s staff provides oversight over these LSC grantees, conducting compliance reviews to ensure appropriations are spent in accordance with law and regulation, and offers advice on how to improve performance and quality representation. The LSC Office of Inspector General oversees the annual financial statement audits of the grantees, conducts independent and objective performance and financial audits

¹ Public Law 104—134, 110 Stat. 1321, (1996); carried forward in subsequent appropriations including LSC’s current appropriations, Pub. L. 111-117, 123 Stat. 3035 (2009).

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of LSC's programs and functions, and conducts investigations into possible fraud, waste, abuse, and noncompliance.

With this background, LSC management's comments in response to the 17 recommendations of the Draft Report are as follows.

Recommendation – Grant Application Processing and Award

1. *Develop and implement procedures to provide a complete record of all data used, discussions held, and decisions made on grant applications.*

Response: LSC accepts this recommendation and will designate additional fields in LSC Grants as "required" fields to further ensure complete and consistent application reviews; document in LSC Grants the data and reports that reviewers use in the application evaluation and funding recommendation process, and document OPP management's funding recommendations in LSC Grants.

2. *Develop and implement procedures to carry out and document management's review and approval of the grant evaluation and award decisions.*

Response: LSC accepts this recommendation. LSC will document the results of the LSC Vice President for Programs and Compliance funding recommendations, as well as the President's review of those recommendations and resulting decisions.

3. *Conduct and document a risk-based assessment of the adequacy of internal control of the grant evaluation and award and monitoring process from the point that the request for proposal is created to award, and grantee selection.*

Response: LSC accepts this recommendation. The Corporation implemented its system of competitive grant awards in April 1996 and since then has made major improvements to the process, including, in 2009, the implementation of LSC Grants, an online grants system.

Because 95 percent of LSC's annual appropriation is awarded through LSC Grants, LSC agrees that it is appropriate to undertake an internal control assessment, consistent with those provisions of the *Standards for Internal Control in the Federal Government* applicable to LSC. To ensure the most comprehensive review, LSC will engage an outside expert to develop and perform a full evaluation and assessment of the competitive grants process. This will include conducting a risk-based assessment of the internal control of the grant evaluation, award, and monitoring process; recommendations of additional internal control options; recommendations of options for maximizing information reporting capabilities; and a report on internal controls and options implemented.

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4. *Conduct and document a cost benefit assessment of improving the effectiveness of application controls in LSC Grants such that the system's data information capabilities could be utilized to a greater extent in the grantee application evaluation and decision-making process.*

Response: LSC agrees with the goal of improving the effectiveness of application controls in LSC Grants. Many additional application controls were instituted in Fall 2009, and others are planned for Spring 2010. LSC will conduct annual reviews of the performance of LSC Grants and incorporate any needed improvements. The Corporation has already determined that these application controls are desirable additions to the grants process. These ongoing improvements are already in progress and will continue. LSC submits that we have already implemented this recommendation.

Recommendation – Grantee Oversight Activities

5. *Develop and implement procedures to ensure grantee site visit selection risk criteria are consistently used and to provide for summarizing results by grantee.*

Response: LSC accepts this recommendation. We note that both the OCE and OPP Office Procedures Manuals outline the various risk factors that are considered in selecting grantees for on-site reviews. The application of those risk factors has now been formalized and will be included in the next revision of the manuals. Consideration of risk factors will be documented for each grantee on an annual basis.

6. *Establish and implement procedures to monitor OCE grantee site visit report completion against a reasonable time frame (as such 120 days in accord with the OCE Procedures Manual goal).*

Response: LSC accepts this recommendation. While we note that an internal system is already used by OCE to monitor report due dates and completion, a more formal system for tracking and reporting the status of each report is being developed pursuant to a recent request from LSC's Board of Directors.

Depending on the reporting format established in response to the Board of Directors' request, additional or modified tracking methods may be developed and implemented. Additionally, to address several issues related to report timeframes, OCE proposes to develop and implement a new timeline for report writing.

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7. *Execute a study to determine an appropriate standard timeframe for OLA opinions to be developed and issued. Develop and implement procedures to monitor completion of OLA opinions related to OCE site visits against the target timeframe for issuing opinions.*

Response: LSC accepts this recommendation. The Office of Legal Affairs (“OLA”) has been developing and will shortly be implementing a new Opinions Protocol which will set forth the procedures and processes to be followed in the development and issuance of both Advisory and Internal Opinions. (Advisory Opinions provide interpretive guidance to staff, grantees and the public on the application of the LSC statutes and regulations, while Internal Opinions provide traditional formal legal advice to the Corporation’s management.) As part of this effort, OLA will be implementing appropriate timeframes for response to requests for opinions.

8. *Develop and implement procedures to provide a centralized tracking system for LSC’s recommendations to grantee identified during grantee site visits and the status of grantees’ corrective actions.*

Response: LSC accepts the goal of this recommendation and will work with the GAO on how best to address the objective.

Recommendation – Performance Management

9. *Develop and implement procedures to link performance measures (1) to specific offices and their core functions and activities and (2) to LSC’s strategic goals and objectives.*

Response: LSC accepts this recommendation. As stated in LSC *Strategic Directions 2006-2010*, LSC’s current measures are linked to LSC’s strategic goals. Beginning on page 15 of the Strategic Directions document, the performance measures are grouped under the specific goal for which they are intended as a measure of progress. LSC recognizes that its performance measures need improvement and has been working to develop better measures and better data. The new LSC Board of Directors will be developing a new strategic plan for the Corporation, and it is fully expected that the new plan will link performance measures to LSC’s strategic goals and objectives. However, as strategic plans and their related performance measures are not intended to state and measure the routine activities of each office, the revised LSC strategic plan may not include measures for each function and activity of each individual office.

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10. Develop and implement procedures for periodically assessing performance measures to ensure they are up-to-date.

Response: LSC accepts this recommendation and will include provisions for periodically assessing performance measures in the new strategic plan.

Recommendation – Staffing Needs Assessment

11. Develop and implement procedures to provide for assessing all LSC component staffing needs in relation to LSC's strategic and strategic human capital plans.

Response: LSC accepts this recommendation and will develop and implement procedures for assessing staffing needs in advance of the budget planning process for the FY 2012 appropriations request.

12. Develop and implement a mechanism to ensure that all LSC staff receive annual performance assessments.

Response: LSC accepts this recommendation.

Recommendation – Budget Controls

13. Develop and implement a process to monitor contract approvals to ensure that all proposed contracts are properly approved before award.

Response: The issue was noted in LSC's annual financial audit delivered in January of 2009 and in an Office of Inspector General audit report in July 2009, and LSC implemented new Administrative Manual procedures in October 2009 to better monitor contract approvals and ensure that funds are available and all contracts receive appropriate approvals prior to issuance. This policy and practice was in place prior to GAO's completing their fieldwork for this report, and a review of LSC's practices since October 1, 2009 will show that the procedures are being followed and all contracts are now being properly approved. LSC submits that we have already implemented this recommendation.

14. Develop and implement procedures for contracts at or above established policy thresholds, to ensure the LSC President provides written approval in accordance with policy before contact award.

Response: This issue is the same as in recommendation number 13 above. See response to item number 13.

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15. Develop and implement procedures to ensure budget funds are available for all contract proposals before contracts are awarded.

Response: This issue is the same as in recommendation number 13 above. See response to item number 13.

Recommendation – Internal Control Environment

16. Develop and implement procedures for providing and periodically updating training for LSC management and staff on applicable internal controls necessary to effectively carry out LSC's grant award and grantee performance oversight responsibilities.

Response: LSC accepts this recommendation. LSC's oversight offices — OPP, OCE and Office of Information Management (OIM) — currently participate in quarterly joint staff meetings for the purposes of training and oversight updates. Management will annually review staff needs for specific training and provide such training to ensure ongoing staff development in understanding applicable internal controls, consistent with oversight responsibilities.

17. Establish a mechanism to monitor progress in taking corrective actions to address recommendations related to improving LSC grants award, evaluation, and monitoring.

Response: LSC accepts this recommendation and will establish a formal process to monitor and track actions taken by LSC in response to recommendations from the LSC Office of Inspector General and GAO. This written procedure will include the person/office responsible for maintaining the tracking system and include quarterly reporting on the status of any remediation efforts to the Board of Directors.

Again, the Legal Services Corporation appreciates the opportunity to comment on the Draft Report prior to its publication. Please feel free to contact me if you have any questions.

Sincerely yours,



Victor M. Fortunato
President

cc: LSC Board of Directors
LSC Inspector General

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Susan Ragland, (202) 512-9095 or raglands@gao.gov

Acknowledgments

In addition to the contact named above, Kimberley A. McGatlin, Assistant Director; Lisa Crye; Patrick Frey; Cole Haase; Bernice M. Lemaire; Mitch Owings; Melanie Swift; and Carrie Wehrly made key contributions to this report. F. Abe Dymond, Lauren S. Fassler, and Justin Fisher provided technical assistance.

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