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Legal Services Corporation

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MEMORANDUM

To: Lora Rath, Acting Director
Office of Compliance and Enforcement

From: Jeffrey E. Schanz
Inspector General 

Date: February 27, 2012

Subject: Examination of Expenditures Incurred for the Performance of TIG Grants
Awarded to Center for Arkansas Legal Services

Attached is our audit report on expenditures of \$240,000 reported by the Center for Arkansas Legal Services (CALS) for the performance of seven TIG grants. The OIG concluded that \$82,300 of personnel costs did not have adequate documentation as required by TIG grant assurances.

TIG grant assurances reference LSC regulations and guidelines that describe documentation requirements for supporting costs. The accurate determination of TIG project costs is important since TIG grant assurances also require that funds provided in excess of project costs be returned to LSC or reprogrammed to other projects with the approval of LSC.

CALS written response to the OIG results (Appendix II of the audit report) stated among other things that LSC management did not provide instructions requiring that labor hours were to be used to distribute personnel expenses to TIG grants and that the questioned personnel costs were fully paid with LSC funds. The OIG position is that the grant assurances provide references to specific record-keeping instructions and that the source of funds does not override the need to document the level of effort spent on the projects. Without knowing actual TIG project costs, LSC management is unable to effectively manage the funding for TIG projects.

The report includes a questioned cost referral to the Office of Compliance and Enforcement. Please contact Ronald Merryman at (202) 295-1663 or via e-mail at RM@oig.lsc.gov if you have any questions.

Attachment

cc: James Sandman, President
Janet LaBella, Director, Office of Program Performance

Examination of Expenditures Incurred for the Performance of TIG Grants awarded to Center for Arkansas Legal Services

RNO: 604061

Report No. AU 12-01

The Legal Services Corporation (LSC) Office of Inspector General (OIG) conducted an examination of expenditures incurred for the performance of Technology Initiative Grants (TIG grants) awarded to the Center for Arkansas Legal Services (CALs). The objectives of the examination were to determine whether the TIG grant expenditures for seven CALs TIG grants that closed during the period of January 1, 2009 through March 31, 2011, were allowable and whether the stated purposes of the TIG grants were achieved. The examination's background and its scope and methodology are discussed in Appendix I.

RESULTS

The OIG concluded that the stated purposes of the seven TIG grants appeared to have been met. However, the OIG also concluded that for four grants, \$82,300 of personnel and fringe benefit expenditures were not supported by adequate documentation and are thereby considered questioned costs. OIG conclusions are based on a review of applicable CALs books, records, internal controls, TIG grant assurances and requirements, applicable regulations and guidance, and OMB Circular A-122, Cost Principles for Nonprofit Organizations.

The following chart lists the combined total expenditures of all seven grants, by budget category, as reported to the OIG by CALs on August 1, 2011. The chart also includes the amounts questioned by the OIG for each budget category.

Line-Item	TIG Expenditures (Claim)	Questioned Costs
Personnel	\$70,425 ¹	\$65,925
Fringe Benefits	\$16,375	\$16,375
Software	\$2,700	
Contracts	\$150,500	
Total All	\$240,000²	\$82,300

¹ Although CALs listed \$70,425 as personnel costs in the information provided, the OIG determined that \$65,925 should be considered personnel costs and \$4,500 non-personnel costs.

² CALs did not include the \$4,100 that was part of the grants received but withheld by LSC headquarters. The money was used by LSC Headquarters to fund one grantee employee to attend LSC's annual TIG conference. LSC Headquarters paid, up to the amount withheld, for the individual's airfare, hotel room conference fee, and provided at least two meals for each day of the conference. Any unused funds provided for TIG conference purposes reverted to LSC for future TIG funding. CALs could not use these funds for any other purposes.

Personnel costs charged to TIG grant numbers 06313, 07315, 08313, and 08314 were not based on time distribution records as required by the grants. Time distribution records identify the total time actually spent by all individuals who charge time directly to the TIG grants.

TIG grant assurances for the CALS TIG grants require that LSC rules, regulations, guidelines, and directives are followed. Pursuant to LSC regulation 45 CFR § 1630.3 (d), salary and wages charged directly to Corporation grants and contracts must be supported by personnel activity reports. Guidance provided in the LSC Accounting Guide for LSC Recipients indicates that labor hours distributed to projects, contracts, and grants should be based on time distribution records that identify the total time actually spent by all individuals who charge time directly to projects, contracts, and grants. Lastly, OMB Circular A-122, Cost Principles for Nonprofits Organizations, which is referenced in the LSC regulations, states that the distribution of salaries and wages to awards must be supported by personnel activity reports.

Based on discussions with the CALS Business Manager and review of the supporting documentation provided, the grantee allocated personnel costs based on the amounts budgeted. CALS management stated that it did not track the employee time that was directly charged to LSC because LSC management did not specifically require them to do so.

Without time distribution records or other acceptable documentation to support the charges, the OIG is unable to determine how much time was spent on these TIG grants. Consequently, the OIG questions \$82,300 in personnel costs as an unsupported cost and, pursuant to 45 CFR Part 1630, is referring these costs to the Office of Compliance and Enforcement for review and action.

GRANTEE COMMENTS

The OIG provided a written draft of its review results to CALS on November 30, 2011. CALS' written response is included at Appendix II and summarized below.

The CALS response indicated that the OIG based its decision to question costs on the TIG grant assurances. However, the response continued that LSC management never provided CALS with written instructions showing that labor hours were to be used to distribute expenses to its TIG grants based on personnel activity reports or timekeeping.

The CALS response also indicated that one employee was assigned to handle the duties to meet the requirements of the TIG grants and provided the following assumptions about the accounting for this individual:

- All funds for paying this employee came from one single funding source, LSC;
- The payment structure for the TIG grants was milestone driven, completely different from the way basic field grants were distributed;

- The employee was not employed as an attorney or paralegal and was not required to keep detailed time records under [45 CFR] Part 1635;
- The employee personally performed the duties and requirements that were directly related to the achievement of the objectives of the TIG grants.

OIG EVALUATION OF GRANTEE COMMENTS

Regarding CALS comments about the lack of written instructions provided by LSC management, TIG grant assurances require compliance with LSC regulations, guidelines, and directives that provide specific written instructions about time-keeping requirements. Further, CALS should have known that it needed to track project costs in order to comply with TIG grant assurances requiring grantees to return or seek reprogramming approval for funds provided in excess of project costs.

Regarding CALS comments about accounting for the employee assigned to handle the duties to meet TIG grant requirements, the OIG notes the following:

- Regardless of the source of funds for this employee's salary, the TIG grant assurances require that the employee's level of effort on the TIG projects be tracked. Without adequate timekeeping records LSC has no assurance that the employee only worked on TIG projects.
- While the payment structure was milestone driven, it does not eliminate the requirement to keep records on project costs.
- While the employee was not employed as an attorney and was not required to keep detailed records under 45 CFR Part 1635, the employee was required to keep personnel activity reports under, 45 CFR § 1630.3(d), the LSC Accounting Guide for LSC Recipients, and OMB Circular A-122, Cost Principles for Nonprofit Organizations as described in the report.
- While the stated purposes of the grants appeared to have been met, CALS did not maintain records supporting the employee's time and we could not conclude on the level of effort that was spent on the TIG grants.

CONCLUSION AND RECOMMENDATION

TIG grantees are required to return funds provided in excess of project costs or seek approval for reprogramming the funds. Without TIG grantees maintaining the required records on actual program costs, they cannot comply with the requirement. CALS has reported that it has now developed an activity report for employee's direct time. For TIG grants 06313, 07315, 08313 and 08314, the OIG could not verify that personnel and fringe benefit costs in the amount of \$82,300 were in fact expended on the TIG grants, and therefore considers them questioned costs.

This report contains no recommendations requiring LSC management response. LSC current regulations state the requirement to maintain adequate records of expenditures of LSC funds. For fiscal years 2010 and 2011, LSC has instructed TIG recipients to submit final expenditures on the project and to consult LSC's Accounting Guide for LSC Recipients, 2010 Edition, for guidance on financial accounting and reporting standards. Through this report, the OIG is referring \$82,300 of questioned costs to the Office of Compliance and Enforcement for review in accordance with 45 CFR § 1630.7.

BACKGROUND

During a recent audit of LSC Headquarters' management of the TIG program, the OIG noted that although LSC required TIG recipients to provide periodic reports about the grants, LSC did not normally maintain information on the actual expenditures incurred in performing the TIG grants. As a result, the OIG planned audits of individual TIG grants to examine expenditures incurred in performing the grants.

The OIG requested specific financial information from recipients on all terminated TIG grants, regardless of termination date, as well as all TIG grants that were completed during the period January 1, 2009 through March 31, 2011. All TIG recipients reported grant expenditures by budget line item. CALS reported expenditures for seven closed TIG grants: 06313, 07313, 07315, 08313, 08314, 08316, and 09313. The total expenditures were \$240,000.

The amount and purpose of each grant is as follows:

- TIG 06313 was awarded in the amount of \$27,600 for continuing the process of content population onto the public and advocate portions of Arkansas' Statewide website.
- TIG 07313 was awarded in the amount of \$70,000 for a follow-on online conferencing grant for CALS to manage, administer, promote, and support online conferencing for LSC funded programs, and to introduce online conferencing to the court systems.
- TIG 07315 was awarded in the amount of \$10,000 to implement real time chat-based assistance for the Arkansas statewide website. The project assists Arkansas statewide website visitors in utilizing the public and advocate portions of the Arkansas statewide website by allowing visitors to ask a remotely located website Specialist for help with finding and using online resources.
- TIG 08313 was awarded in the amount of \$35,000 to continue development of document assembly forms. The document assembly forms are used by pro se litigants and advocates to prepare automated standardized court filings.
- TIG 08314 was awarded in the amount of \$15,000 to provide multimedia self-help content through streaming video hosted by YouTube with video links embedded on the Arkansas statewide website.

- TIG 08316 was awarded in the amount of \$50,000 as a follow-on online web conferencing grant for CALS to provide an online web conferencing system for the poverty law community to help programs conduct online meetings and trainings.
- TIG 09313 was awarded in the amount of \$36,500 as a follow-on online web conferencing grant for CALS to provide an online web conferencing system for the poverty law community. This grant continues the support and training mechanisms in place for LSC programs.

SCOPE AND METHODOLOGY

The audit was conducted in accordance with Government Auditing Standards for an examination-level attestation engagement. As such the audit examined evidence supporting the grantee's compliance with grant provisions related to expenditures, obtained an understanding of internal controls that were material to the grantee's compliance with the terms and conditions of the grant, and performed other procedures necessary to evaluate the grants. The review was limited in scope and not sufficient for expressing an opinion on the entire system of grantee internal controls over financial operations or compliance with LSC regulations.

To accomplish the objectives of the examination the following steps were performed:

- The appropriateness of expenditures and the existence of adequate supporting documentation were reviewed for each TIG grant. Since there were few expenditures for each TIG grant, we reviewed 100 percent of the expenditures. To assess the appropriateness of grantee expenditures, we reviewed invoices, contracts, and employee time records. The appropriateness of grantee expenditures was evaluated on the basis of the grant agreements, applicable laws and regulations, and LSC policy guidance.
- Internal controls over personnel and contracting expenses were reviewed and tested, which included a review of relevant grantee policies and procedures. Grantee officials were interviewed to obtain an understanding of the internal control framework, and grantee management and staff were interviewed as to their knowledge and understanding of the processes in place.
- To determine whether the stated purpose of the TIG grants was achieved, we held discussions with grantee staff and received demonstrations on grant outcomes.



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CENTER FOR ARKANSAS LEGAL SERVICES

Equal Justice For All

January 9, 2012

Mr. Richard Adkins
Office of Inspector General
Legal Services Corporation
3333 K Street, NW, 3rd Floor
Washington, D.C. 2007-3558

Recipient Name: Center for Arkansas Legal Services
Recipient Number: 604061

Re: Response to OIG Audit of TIG Expenditures

This is the response of the Center for Arkansas Legal Services (CALs) to the Audit of TIG Expenditures report completed by the LSC Office of Inspector General of TIG grants 06313, 07313, 07315, 08313, 08314, 08316 and 09313.

The OIG audit team concluded that TIG grant assurances require that LSC rules, regulations, guidelines and directive must be followed, and Part 1630 requires that salary and wages charged directly to Corporation grants and contracts must be supported by personnel activity reports or time records. The OIG based its decision to question the personnel costs for all of CALs TIG grants on this one single premise.

However, for the TIG grants in question, LSC Management never provided CALs with instructions showing that labor hours were to be used to distribute personnel expenses to its TIG grants based on personnel activity reports or timekeeping. TIG grants were always treated differently from other LSC grants. Payments were not made on a regular monthly basis as is true of regular LSC grants, but were made upon the completion of Milestones set out in the grants.

We assigned one employee, Mr. Vince Morris, to handle the duties to meet the requirements of the TIG as outlined in the Milestone reporting sections of the grants. At the time of issuance of these TIG grants, the TIG milestones instructions did not mention anything about a requirement that hours were to be kept or reported to meet milestones and qualify for the payment of funds. In contrast, in 2011 for the TIGs awarded in 2010, LSC Management explicitly included a special instruction that required grantees to keep a record of hours spent on each TIG grant and include these records in their reports. It was obvious to the LSC Management that they had not specified that TIG grantees keep hours under the milestone instructions to receive payment from LSC for individual TIGs issued during the time period being audited. Since the institution of the new

instruction, CALS has developed an activity report to account for employees' direct time spent on TIG and we are using the activity reports to charge salary and benefits to each individual TIG as per current LSC Management requirements.

Since a large portion of the TIG milestones were for reimbursement of expenses for duties performed in previous payroll periods, Mr. Morris' salary and fringes were charged to the LSC Basic Field grant until the milestones for the TIG grants were met and then his salary expense and fringes were charged to that TIG.

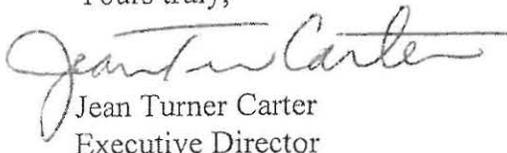
We did maintain time and attendance reports for Mr. Morris showing the total hours he worked in each payroll period. Since Mr. Morris was employed to perform the specific duties required under the TIG grant program and he spent his time personally performing those duties, we did not understand that he was required to maintain "personnel activity reports" as if he were working under different funding sources or different grants. We considered all the TIGs as one program.

During the OIG's field visit, we provided the auditor with proof of Mr. Morris' salary by year, which the team audited. In no year did the total salaries charged to the TIGs exceed Mr. Morris' salary. We also had proof of expenses incurred for fringe benefit that were provided to Mr. Morris. The OIG auditor chose not to audit these records. The salary charged to each TIG equaled the amount allowable when the TIG was granted and when the milestones were met. The OIG auditor confirmed this.

In summary, our accounting for Mr. Morris' salary applied to TIG revenues was based on these assumptions. First, all funds used for paying Mr. Morris's salary came from one single funding source, the Legal Services Corporation. Second, the payment structure for the TIG grants was milestone driven, completely different from the way basic field grants funds were distributed.. Once those Milestones were met, we received payment from LSC and were able to apply the revenue to expenses as requested in the TIG application. Third, Mr. Morris was not employed as an attorney or paralegal and was not required to keep detailed time records under Part 1635. Fourth, Mr. Morris personally performed the duties and requirements that were directly related to the achievement of the objectives of the TIG grants.

We hope that this response makes it clear that CALS had every intention to comply with the requirements set forth by LSC for the TIG grants in question. Since those TIG grants were administered based on a system of payments once CALS reached the Milestones in the grant and LSC gave no instructions to suggest that they were to be treated in the same way as basic field grants, we had no reason to believe that we were required to keep personnel activity reports or time records for Mr. Morris. Once LSC began requiring those kinds of records, CALS willingly complied.

Yours truly,


Jean Turner Carter
Executive Director

jtc