

**LEGAL SERVICES CORPORATION
OFFICE OF INSPECTOR GENERAL**

**AUDIT OF GRANTEE'S
PRIVATE ATTORNEY INVOLVEMENT
PROGRAM**



Grantee: LEGAL AID OF NORTH CAROLINA

Recipient No. 634032

Report No. AU-05-02

January 2005

www.oig.lsc.gov

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INTRODUCTION

The Legal Services Corporation (LSC), Office of Inspector General (OIG) conducted this audit to evaluate Legal Aid of North Carolina's (grantee) compliance with the Private Attorney Involvement (PAI) regulation (45 CFR 1614). This regulation requires the grantee to spend an amount equal to at least 12.5 percent of its basic field grant to involve private attorneys in providing legal services to clients. Grantees are to provide LSC statistics on the private attorneys involved and the programs must operate efficiently and effectively.

BACKGROUND

Legal Aid of North Carolina, Inc. (LANC) is a non-profit corporation established to provide legal services to indigent persons who meet applicable eligibility requirements. LANC is headquartered in Raleigh, North Carolina with branch offices in Ahoskie, Asheville, Boone, Charlotte, Concord, Durham, Fayetteville, Gastonia, Goldsboro, Greensboro, Greenville, Henderson, Morganton, New Bern, Pembroke, Pittsboro, Rocky Mount, Sanford, Smithfield, Sylva, Wilmington, Wilson and Winston Salem. LANC commenced operations on July 1, 2002, upon consolidation of the following: Legal Services of North Carolina (Raleigh), North Central Legal Assistance Program (Durham), Legal Services of Southern Piedmont (Charlotte) and The Legal Aid Society of Northwest North Carolina (Winston Salem). LANC is the only LSC-funded legal service in North Carolina.

The grantee has total staffing of approximately 222 employees, about one-half are attorneys. The grantee received an LSC basic field grant of \$7,483,900 for 2003. LANC's total funding for 2003 was \$16,318,794. The PAI program, as reflected in the statistical data, includes a higher than average percentage of extended service cases (33 percent for 2003), with 43 percent family law, 17 percent consumer/finance, and 17 percent housing. Legal services are provided through pro bono attorneys and reduced fee contractors. In some instances, staff attorneys provide co-counseling assistance to PAI attorneys. In addition, there are a few clinics staffed by private attorneys.

LANC's PAI plan varies from office to office because of unique circumstances in each of the counties where programs are located. Of the 1946 closed PAI cases for 2003; 823 were closed in Sylva, 216 in Morganton, 177 in Charlotte, 111 in Raleigh, 84 in Durham/Henderson and 63 in Smithfield. The remaining cases were scattered among several offices with no single office reporting more than 60 cases.

LANC has taken action to coordinate PAI activities, obtaining input from each of the entities consolidated in 2002. LANC established a task force of the fourteen PAI coordinators and also utilizes the former Boards of Directors of the consolidated entities as advisory boards. In addition, LANC has provided detailed guidance to ensure that staff timekeeping charges to PAI are accurate.

In 2003, LANC reported \$1,019,875 (\$462,737 in LSC funds) to meet the PAI requirement. This amounted to 13.6 percent of the annualized basic field grant of \$7,483,900. Of the total PAI expenditures reported, LANC reported \$558,148 for staff salaries and benefits, and \$461,727 for non personnel costs. The non personnel costs consisted of allocations for indirect charges such as rent, equipment and office expenses (\$111,630) and expenditures charged directly to PAI for payments to reduced-fee contract attorneys (\$350,097).

OBJECTIVES, SCOPE AND METHODOLOGY

The purpose of the audit was to evaluate compliance with requirements established in 45 CFR 1614, relating to PAI, including effectiveness and efficiency of PAI programs (Sec. 1614.1(c)). The on-site portion of this audit was performed from August 30, 2004 to September 2, 2004. This audit is part of a series of audits of PAI the OIG will conduct at a representative number of LSC grantees to identify systemic weaknesses as well as "best practices." The audit was performed in accordance with Generally Accepted Government Auditing Standards.

The audit covered the period from January 1, 2003, through December 31, 2003, for accounting data and for statistical data. The OIG reviewed grant applications, audited financial statements and statistical data reported. The OIG interviewed the Executive Director (ED), the Assistant Director for Finance and Administration (AD), and the Finance Director at the headquarters office in Raleigh. In addition, OIG auditors interviewed the PAI Coordinators in Raleigh, Morganton, Wilson, Charlotte and Durham as well as managing attorneys in Morganton, Wilson and Charlotte. By telephone, OIG auditors interviewed the technology specialist in Wilson and the contract attorney in Sylva. The OIG performed the following specific tests:

1. Planning - Reviewed and evaluated the grant application for 2003. Interviewed LSC Office of Program Performance and the LSC Office of Compliance and Enforcement staffs to obtain background on prior reviews and evaluations. Interviewed the ED and AD to evaluate planning for prioritizing legal needs and for obtaining feedback from community organizations and clients on PAI legal services provided.

2. Statistics - Traced statistical reports (Case Statistical Reports) to closed-case listings for PAI cases. Tested samples of cases for each of the two offices where PAI cases were reported to verify existence, LSC eligibility, type of case and level of service. Tested the accuracy of data reported on the J-1 Report-Components of PAI by tracing the data to supporting documentation.
3. Accounting - Reviewed and evaluated the grantees audited financial statements for 2003. Tested a sample of direct PAI disbursements, tracing expenditures to source documentation submitted by vendors and evaluating relevance to the PAI program. Compared a listing of individuals who had terminated employment with the grantee in the past two years to verify compliance with the prohibition on paying these former employees, including reduced-fee contracts for PAI. Evaluated the reasonableness of time charged to PAI by grantee employees, related indirect costs and internal controls over accounting for PAI.
4. Oversight - Reviewed self-inspections for 2003. Tested samples of open and/or recently-closed cases to evaluate the timeliness of follow-up and case closure.
5. Productivity - Evaluated statistical and accounting data to assess the productivity of the grantee's overall PAI program by comparing this data to national averages. Compared productivity between the PAI programs at the grantee's offices.

RESULTS OF AUDIT

The grantee complied with most of the requirements of 45 CFR 1614. Those aspects of 45 CFR 1614, and related statistical reporting requirements where improvements are needed is detailed in this section of the report. Specifically the grantee:

- did not provide adequate oversight and follow-up for cases referred to private attorneys (1614.3(d)(3)).
- did not report accurate statistical data on its PAI program to LSC

Each finding is discussed in detail below.

OVERSIGHT AND FOLLOW-UP

The grantee did not provide adequate oversight or follow-up of cases referred to private attorneys. This occurred because the grantee had no uniform, written procedures for follow-up on PAI cases. As a result, controls were not in place to ensure prompt disposition of PAI cases.

A sample of ninety-two cases was selected for review from nine grantee offices (Raleigh, Morganton, Charlotte, Goldsboro, Wilson, Rocky Mount, Durham, Sylva and Smithfield). We found sixty discrepancies from six of the nine offices reviewed (no discrepancies were found for Morganton, Sylva or Smithfield). Of the discrepancies; one case was not available, five were misclassified as PAI cases, twenty should have been closed and thirty-four had no documentation of timely follow-up. Three examples illustrate the problem.

Case A was opened and assigned to a private attorney in August 2000. The attorney was contacted in August 2004, and reported that the case had been closed in April 2001. There was no documentation of prior contacts with the attorney.

Case B was opened and assigned to a private attorney in January 2002. The most recent follow-up with the attorney occurred in August 2004, but the most recent prior contact was in July 2002.

Case C was opened in July 1995. The case file was not available and there was no documentation of contact with the attorney. A follow-up initiated by the grantee with the client in August 2004 revealed that legal services were provided and completed in 1996.

The grantee had not implemented procedures requiring the staff to follow-up with private attorneys at least quarterly to determine the status of cases. The grantee should establish procedures requiring follow up on all PAI cases, including documentation of timely follow-up. The establishment of and adherence to such procedures would substantially correct the follow-up problem without burdening either grantee staff or the private attorneys.

The OIG recognizes that following up on the status of PAI cases presents some difficult challenges for the grantee. The involvement of private attorneys expands the availability of legal services to eligible clients. The OIG understands that the grantee certainly does not want to alienate the attorneys and have them leave the program. However, the follow-up procedures outlined in the prior paragraph should not be an undue burden to either the private attorneys or grantee staff, and should ensure the timely disposition of cases as required by the regulation. These procedures will also help to prevent inaccuracies in the grantee's reports of closed cases.

RECOMMENDATION

We recommend that the Executive Director

1. Establish procedures requiring grantee staff to follow up with private attorneys on the status of PAI cases at least quarterly, including documentation of timely follow-up.

STATISTICAL REPORT

The grantee reported inaccurate statistical data for 2003 on two statistical reports. On the CSR report (G-3(d)), the grantee reported 2,313 closed cases for 2003. However, the supporting documentation revealed that 1,946 cases were closed in 2003. The technical specialist for the grantee advised that this overstatement of 367 cases for PAI occurred because the grantee did not modify its data base for those cases that were initially referred to PAI attorneys and subsequently transferred to staff attorneys. Total closed cases reported was correct since the overstatement of PAI cases was mirrored by an understatement of staff cases.

On the J-1 Report—Components of PAI, the grantee reported 2,001 PAI closed cases for 2003. The technical specialist reported that this overstatement by 55 cases resulted from erroneously double counting those PAI cases that were initially referred to one PAI attorney and subsequently transferred to another PAI attorney. Also, the grantee reported 2,806 attorneys agreeing to participate in the PAI program and 1,062 who accepted referrals in 2003. However, supporting

documentation showed 838 attorneys “in the PAI program.” The grantee did not provide a reconciliation or explanation for this discrepancy. Statistical data should be reported accurately and supporting documentation should be complete in order to ensure accountability and support reliance on that data.

RECOMMENDATION

We recommend that the Executive Director:

2. Establishes procedures to ensure that all statistical data reported is accurate and that supporting documentation is complete.

SUMMARY OF GRANTEE’S COMMENTS ON DRAFT REPORT

GRANTEE COMMENT – OVERSIGHT AND FOLLOW-UP

The grantee stated that the draft report was accurate and agreed to implement the recommendation to establish follow-up procedures on the status of PAI cases.

GRANTEE COMMENT – STATISTICAL REPORT

The grantee stated that the draft report was accurate and agreed to establish procedures to ensure that all statistical data reported is accurate and that supporting documentation is complete.

Legal Aid of North Carolina, Inc.

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APPENDIX I

George R. Hausen, Jr., Esq.
Executive Director

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December 17, 2004

Kirt West
Inspector General
Legal Services Corporation
3333 K Street, NW 3rd Floor
Washington, DC 20007-3522

Re: LSC OIG PAI Audit of Legal Aid of North Carolina, #634032.

Dear Mr. West:

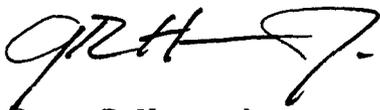
I have received and reviewed the draft report on the results of your PAI audit of our program. I have also presented it to our Board for discussion at our recent meeting. We found the report accurate and we intend to implement both recommendations made by the team.

As a newly consolidated program, we appreciated the thoughtful insights and professionalism of the audit team. This particular process and the resulting report recommendations will certainly will help us improve our services to clients and strengthen our relationship with the private bar.

Please contact me for any clarification of the points raised by this response.

Thank you.

Sincerely,



George R. Hausen, Jr.
Executive Director

cc: Leo Allison, Chairman of the Board



APPENDIX II

OIG On-Site Audit Team

David Gellman (Auditor-in-Charge)

Amelia Laguilles

Abel Ortunio