

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS



For 25 Years, America's
Partner For years Equal Justice

**COMMENTS
ON THE
OFFICE OF INSPECTOR GENERAL'S
SEMIANNUAL REPORT TO THE CONGRESS
FOR THE PERIOD**

APRIL 1, 2000 – SEPTEMBER 30, 2000

NOVEMBER 30, 2000

FOREWORD

I am pleased to transmit the comments of the Legal Services Corporation (“LSC”) Board of Directors (“Board”) regarding the Semiannual Report of LSC’s Office of Inspector General (“OIG”) for the six-month period of April 1, 2000 through September 30, 2000.

LSC’s Board of Directors recognizes the value of the Inspector General function and remains committed to working with the Office of Inspector General to achieve our goal of providing high quality legal assistance to the poor of our nation.

Douglas S. Eakeley, Chairman
Legal Services Corporation
November 30, 2000

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MESSAGE OF THE BOARD OF DIRECTORS

During the reporting period, LSC made continued progress in its State Planning Initiative. Indiana is now among the states which have developed coordinated plans to increase resources and services to clients statewide. Since 1998, LSC has restructured legal services programs in 10 states, and the number of LSC grant recipients has decreased from 269 in 1997, to 208 in calendar year 2000. Additionally, but just beyond the close of the reporting period, LSC participated in a regional meeting, convened by the ABA's State Planning Assistance Project, to stimulate similar efforts in Arizona, Colorado, Idaho, Montana, New Mexico, Utah and Wyoming. LSC has also convened meetings in New York, Texas, Wisconsin and other states to meet with program directors face-to-face, in order to share its ideas about state planning and reconfiguration.

The values and goals that underlie LSC's state planning initiatives include: the belief that LSC-funded programs must function as a concerted, coherent, closely coordinated legal assistance delivery system; the belief that LSC-funded programs must include other equal justice partners in the creation and implementation of a concerted, coherent, closely coordinated legal assistance delivery system; the belief that the legal services community must develop additional resources to expand legal services; a commitment to the incorporation of the views of clients and key partners in making major decisions about how to design and implement a system of high quality comprehensive legal services; and dedication to the concept that legal services resources must be targeted to achieve the greatest measure of equal justice for clients and economically disadvantaged people. LSC's ultimate goal in this regard is to help grantees create state communities of justice – integrated and coordinated legal services delivery systems which comprehensively improve grantees' delivery of services to clients. LSC has made significant progress in this effort and continues to assist recipients in improving the quality of legal services nationwide.

LSC has also made significant progress in its goal of increasing the use of technology in the delivery of legal services. As a result of the additional \$4.25 million LSC received from Congress for FY 2000, LSC initiated its Technology Innovation Grants, and awarded 32 grants in 27 states. LSC's priorities in awarding these grants include: proposals that showcase how a complete package of technology tools can help indigent clients with access to legal services and self-help information; proposals for new and innovative uses of technology for assisting clients; and proposals that promote the linkage of offices to provide a more cohesive delivery system.

During the reporting period, LSC made continued progress in improving the accuracy of Case Service Reports data, developing a revised, standardized, self-inspection instrument which all grantees were required to use in reviewing their 1999 CSR data and which substantially reduced reporting errors. On April 30, 2000, LSC presented a Special Report to Congress documenting the improved accuracy of the reports.

BACKGROUND

Legal Services Corporation

The Legal Services Corporation is a private, non-profit corporation established in the District of Columbia by the Legal Services Corporation Act of 1974, as amended (“the LSC Act”),¹ to provide financial support for legal assistance in civil proceedings to persons unable to afford legal services. LSC is governed by an eleven-member bipartisan Board of Directors who are appointed by the President of the United States with the advice and consent of the Senate. The Board appoints LSC’s President, who serves as the Corporation’s chief executive officer, subject to general policies established by the Board.

The 1988 Amendments to the Inspector General Act of 1978 (“1978 Act”) required LSC to establish an Office of Inspector General (“OIG”) and extended specific provisions of the 1978 Act to LSC. Accordingly, such an office was established by and for LSC. The Inspector General is appointed by, reports to and serves under the general supervision of LSC’s Board of Directors.

Funding and Grant-Making Activities

LSC received a Congressional appropriation of \$305 million for FY 2000, with which it made grants to 258 programs to provide free legal services to indigent persons across the country. As a result of the \$4.25 million LSC received in FY 2000 for technology initiatives, it awarded 32 Technology Initiative Grants to programs in 27 states. Among the programs that received technology grants were those that proposed packages of technology tools to help indigent clients access legal services and self-help information; innovative uses of technology to help clients; and the technological linkage of offices to provide a more cohesive delivery system.

¹ 42 U.S.C. §§ 2996-2996l.

MANAGEMENT INITIATIVES

During this reporting period, LSC continued its efforts to improve the efficiency of its competitive grant award system and the effectiveness of the delivery of legal assistance by its initiative for statewide planning and coordination of legal services. The Corporation continued to demonstrate its ability to ensure both compliance with program rules and regulations and the maintenance of high quality legal assistance to eligible clients.

Strategic Directions

On January 28, 2000, the LSC Board of Directors approved LSC's 5-year Strategic Direction Plan. This document commits LSC to dramatically enhance the impact of legal services programs throughout the nation by improving access to legal services while enhancing their quality. The Plan emphasizes LSC's State Planning Initiative, as well as the increased use of technology, as significant strategies for expanding access to, and availability of, services throughout the United States. LSC is developing performance measures to assess the ongoing effectiveness of its strategic plan, and will undertake pilot projects in up to five programs in 2001.

Competition and State Planning

The FY 2001 grants competition marks the sixth year of the congressionally mandated grant award process. During the past year, LSC has established significant oversight goals to assure the delivery of high quality legal services. The evaluation process of the competitive grants system is one of the tools used to achieve those goals. Through the competitive grant making process, LSC makes grants to qualified applicants which demonstrate the ability to meet numerous statutory and regulatory requirements. Our evaluation process of competitive grant applications also helps detect potential weaknesses in the delivery structure and triggers immediate corrective actions.

Of equal importance, information gleaned from the grant application evaluation process may be used to facilitate a national information network on applicant strengths and best practices. Specifically, applicant strengths and best practices may be shared with other providers across the country, increasing the overall effectiveness and quality of the national delivery system.

To further improve the national delivery system, LSC is planning a conference entitled "Creating Client-Centered State Communities of Justice" for the Spring of 2001. This national conference will assemble participants from around the country comprised of client board members and program advocates, in order to solicit and distill the best ideas about improving legal services delivery, and direct services to clients.

LSC's Strategic Directions help assure that the gains that result from new uses of the competitive grant evaluation process become an institutionalized part of the system

for assuring high quality legal services. We will continue to make investments in technology, and the research and development of new ideas, to further enhance the process for receiving, evaluating, and disseminating information from the grants competition process.

LSC has contributed a substantial amount of resources to provide technical assistance to grantees in many areas of state planning including, but not limited to, the planning of meetings and assistance with mergers. In late 1999, LSC contracted with the Management Information Exchange (“MIE”) to help our grantees in Arkansas, Louisiana and Alabama develop private bar campaigns and other resource development strategies. A similar grant was made the previous April to assist Mississippi. Last March, LSC joined the ABA and its State Planning Assistance Project (“SPAN”) at a regional meeting of nearly 50 bar leaders, judges and program directors in New Orleans to discuss specific strategies for increasing resources and developing new leadership. As a result of these and other efforts, several southern states are in the process of creating equal justice commissions, task forces, or state bar positions. LSC participated in a second regional meeting on November 3, 2000, in Salt Lake City, sponsored by SPAN, to stimulate similar efforts in Arizona, Colorado, Idaho, Montana, New Mexico, Utah and Wyoming, where legal services resources are slim.

Technology Initiative Grants

As a result of the additional \$4.25 million LSC received in FY 2000 for technology initiatives, our Office of Program Performance established the Technology Initiative Grants (“TIG”) Program. In soliciting proposals and awarding grants, we identified three priorities for proposals: those that showcase how a complete package of technology tools can help indigent clients with access to legal services and self-help information; those for new and innovative uses of technology for assisting clients; and those that promote the linkage of offices to provide a more cohesive delivery system. We received 59 applications from 37 states, and after an extensive evaluation by LSC staff and an independent review panel, we awarded 32 grants in 27 states. We have announced four major grants in South Carolina; New Jersey; Hawaii; and the Navajo and Hopi Nations.

Case Service Reporting

During the reporting period, we have further improved the accuracy of Case Service Reports (“CSR”) data and strengthened the systems for obtaining accurate data. On April 30, 2000, we presented a special report to Congress documenting the improved accuracy of the CSR.

Consistent with General Accounting Office (“GAO”) recommendations, we developed a revised, standardized, self-inspection instrument which all grantees were required to use in reviewing their 1999 CSR data. This self-inspection served the purposes of (1) enabling grantees to spot and correct deficiencies in their CSR systems

(and thereby improve the accuracy of their 1999 data before submission to LSC); and (2) enabling LSC to locate and assist programs that have difficulties with their CSRs.

In accordance with GAO recommendations LSC also strengthened, clarified and simplified case reporting and documentation requirements based on the experience of the 1999 self-inspection process. We issued these changes in a letter to grantees and incorporated them into a revised edition of our 1999 CSR Handbook, which provides complete, up-to-date instructions on reporting.

Based on the improvements LSC made in this area, we expect an increased accuracy rate in the 2000 CSR. We also anticipate a modest increase in the total cases reported, based on grantees' increased familiarity with, and attention to, accurate reporting, and the elimination of technical errors which resulted in many cases being non-reportable in 1999.

We are also pleased to report that we have made progress with "the Results Project," LSC's internal effort to make revisions to the existing CSR system to measure the work of our grantees in areas commonly classified as "matters"--community legal education, outreach, the development of pro se materials, contacts through websites and the like. The Results Committee has been rapidly moving forward to develop a reporting mechanism to capture non-case related information and to test this new measurement tool after the first of the year. The Committee has tentatively selected 25 grantees as potential test sites and has hired a consultant to refine the measurement tool prior to the test.

Initiatives with Special Needs Populations

Migrants

In March of 2000, LSC sponsored a two and one-half day conference in Boerne, Texas on the delivery of legal services to migrants. The conference was attended by migrant legal services staff members and program directors from over 35 states, as well as other invited guests and LSC staff. The purposes of the conference were to provide an opportunity for LSC and program directors to hear from the migrant farmworker legal services community about concerns and ideas for service delivery to their populations; to provide a forum for the exchange of ideas on service delivery; to share both delivery challenges and successes with each other and LSC staff; and to assist LSC in developing a new funding policy regarding the delivery of migrant legal services.

The conference was highly successful. Papers prepared by the migrant legal services community prior to the conference provided the basis for much of the delivery discussions, and those papers were both informative and provocative. A primary issue at the conference was how to strengthen migrant programs in those states that receive a limited amount of migrant funding due to the size of their migrant populations.

The conference resulted in the identification of core capacities which each migrant program is expected to achieve regardless of size. Migrant programs responded

to expectations in several ways. Migrant programs in New England joined forces as a single service area with Pine Tree Legal Assistance in Maine, thereby becoming the grant recipient to provide services in Maine, Vermont, New Hampshire, Connecticut, and Massachusetts. In the Southeast, Texas Rural Legal Aid (TRLA), with the consent and full cooperation of migrant projects in the Southeastern states, applied for the migrant grant for Alabama, Kentucky, Mississippi, Tennessee, Arkansas, and Louisiana. Using the expertise of TRLA migrant staff, the migrant projects in these southern states will be greatly improved. In other states, migrant projects are collaborating with other migrant service providers in their regions with the goal of strengthening their core capacities.

Native American Programs

As a result of funding concerns raised at the 1999 Native American Program Conference, LSC will raise the funding floor for thirteen (13) Native American service areas to \$10.00 per poor person beginning in 2001. A total of \$952,134 will be required to achieve this objective. Follow up meetings to this conference have identified the lack of training for advocates in Indian Law as a significant problem. This is an important concern which the LSC Board and management will endeavor to address in the next year.

Based on recent efforts to identify problems in Native American service areas, LSC has requested a change in the appropriation language regarding Native American programs to allow the expansion of service areas from a county or reservation to the entire state in those seven (7) service areas where there is a single recipient for Native American funding. The three states for which service areas will be expanded for FY2001 are Nebraska, South Dakota, and Wyoming. If the requested language is adopted, we will expend \$31,481 during FY 2001 to achieve this objective.

If the appropriation language change is adopted, LSC will fund new programs in New York and Florida. These two states have substantial Native American populations but do not have funding for complex Indian law issues. New York has ten (10) state and federally recognized reservations and Florida has seven (7) federally recognized reservations. This funding would provide services for several thousand low income Native Americans on issues that are not currently addressed by the basic field programs in those states. Each of these states would receive \$250,000 for such services.

Rulemaking Activities

During this reporting period, LSC issued new rules on "timekeeping" and "recipient fund balances." Under the timekeeping rule (45 CFR Part 1635), part-time attorneys and paralegals at LSC-funded programs who also work for another organization that engages in restricted activities are required to certify that they did not engage in any restricted activities during the time for which they were compensated by the LSC-funded program. The revisions to the timekeeping rule are intended to ensure that part-time employees do not engage in restricted activities during any time for which they are being compensated by the LSC-funded program. The amended rule became effective on August 7, 2000.

The revised recipient fund balance final rule, 44 CFR Part 1628, was published on November 7, 2000. Under the final rule, recipients will be permitted to carry over fund balances of 10% or less; will be able to seek LSC approval for carryover balances of between 10% and 25%; and will be generally prohibited from retaining fund balances of over 25%, except in three very limited circumstances. The exceptions would be where the fund balance overage results from the receipt of insurance proceeds; real estate sale proceeds; or proceeds received as a result of a lawsuit in which the recipient was a party. The new rule will become effective on December 7, 2000.

In addition, LSC adopted a new Rulemaking Protocol to govern LSC rulemaking activities. While there is no legal requirement for LSC to have a protocol related to rulemaking, LSC believes that having a written statement setting forth the procedures to be followed in the course of LSC rulemaking activities will serve to advance LSC's policy of conducting its rulemaking activities in a spirit of cooperative dialogue with our recipients and other interested parties. The new Rulemaking Protocol has the following six objectives: (1) enhanced implementation of Congressional directives; (2) increased public participation in the manner and method in which LSC promulgates rules; (3) the adoption of procedures that reflect the best practices in rulemaking; (4) implementation of LSC's strategic initiatives; (5) formalization of LSC's policies governing rulemaking; and (6) development of a rulemaking protocol that is efficient and effective.

Finally, LSC published a *Federal Register* notice setting forth the text of a proposed *Property Manual* that, if adopted, will govern the use by recipients of LSC funds to acquire, use and dispose of real and non-expendable personal property. The proposed *Property Manual* is intended to provide recipients with a single complete and consolidated set of policies and procedures related to property acquisition, use and disposal and would supersede guidance currently contained in several LSC documents. Comments are due to LSC by November 27, 2000.

Technology

Technology is an important priority at LSC, as adopted by the Board in Strategic Directions. We believe it is critical that LSC be cognizant of all technological advances in order to keep pace with the market, make efficient use of LSC funds, and provide as much information technology to grantees as possible. Our technology team once again succeeded in implementing increased use of technology in-house, and on the road with traveling staff, to create a more cost-effective and efficient organization.

During the last year, we moved the LSC web site in-house so that LSC staff now administer it. This will increase our ability to update the web site promptly and assure that members of Congress and the general public access the most current information available. We have also made our program data accessible to LSC staff and other authorized persons by making the data available on the internet. Such initiatives significantly increase efficiency and productivity. We also launched two new web-based initiatives, the Grantee Profile and the Grantee Reports ("GREPS") systems, which are

both accessible from outside LSC. These systems assist consultants in evaluating applications in the competition process and bolster the efficiency of LSC staff on field visits.

Last spring LSC co-sponsored a conference on Case Management Software (“CMS”) at the Equal Justice Conference in Houston. This conference was designed, among other purposes, to assist our grantees in creating central databases for statewide or regional intake. In late October we co-sponsored a conference on *pro se* collaboration, for which we assembled participants from state courts, legal services programs, and other community partners from twelve states. The goal of the conference was to help these states build teams to develop *pro se* and self-help materials for indigent litigants.

During the reporting period LSC trained groups of grantees from Ohio, West Virginia, Michigan, South Carolina and Tennessee on various technological subjects ranging from the use of case management software for management reports, to the latest, most innovative uses of technology for delivering legal services. Although it is out of the reporting period, LSC also trained groups of grantees from Virginia on November 1, 2000.

During the reporting period we also expanded the Technology Section of our Recipient’s Information Network (“RIN”) to be a more valuable resource for grantees. We endeavor to include a section on the RIN about each Technology Initiative Grant award, so that all programs can learn in detail about innovative projects which they might wish to implement themselves. In coordination with the Project for the Future of Equal Justice, we also developed a technology listserv. Using the information we receive from our grantees, we invited the technology responsible persons from all programs to participate in the exchange of information, which we monitor, and to which we contribute.

LSC continues to routinely provide its grantees with technological support and advice on a range of issues. Its efforts in this area include: engaging in conference calls with grantees to trouble-shoot technological problems; interviewing technology consultants; purchasing technology equipment; helping grantees to revise their case management systems to improve the accuracy of the required Case Service Reports (“CSR”); and providing information and updates on the implementation of innovative technology by other grantees.

COMPLIANCE MONITORING AND ENFORCEMENT

Complaints

LSC received 41 complaints and closed 45 during the reporting period.

Status of Findings and Recommendations

With respect to the eleven open recommendations to LSC management from prior reporting periods:

- The Inspector General originally made twelve (12) recommendations on LSC's alternative work arrangements. LSC has resolved five (5) of these recommendations. In order to address the remaining seven (7) recommendations, revisions are being made to the LSC personnel manual, which are expected to be complete by December 31, 2000.
- The Inspector General's recommendation that LSC review the applicability of the regulation on alien eligibility to children in long-term foster care with respect to the Legal Aid Bureau Incorporated (Maryland) (Recipient No. 321016) is currently under review by LSC's Office of Legal Affairs.
- The three recommendations related to LSC financial management will be addressed in a reorganization to be effective next quarter.

Statutory Recommendation

Expanded Access Legislation

During the reporting period, the IG made recommendations to Congress concerning access to communications and information that have long-been protected by the attorney-client privilege. While the Board is fully committed to supporting access to records necessary for the IG and LSC Management to discharge their statutory functions, and while the Board has passed a resolution expressing its explicit support for access to records needed by the IG and LSC Management, the Board does not support amending the law to provide access to such sensitive and historically-protected communications and information.

Current law provides that time records, eligibility records, client names, and retainer agreements "shall be made available" to any federal department or agency monitoring or auditing the activities of LSC or a recipient, except for such records and reports that are subject to the attorney-client privilege. The Board feels strongly that the

current law properly balances the need for information by auditors and other monitors with the well-established jurisprudence embodied in the law of attorney-client privilege.

Appropriation for Management and Administration

Because the IG disagreed with the effectiveness of protocols established by LSC Management to obtain and review needed information sought from grantees in investigations that Management was conducting, the IG recommended against the appropriation of additional funds in FY 2001 for LSC Management to expand its compliance oversight activities, including on-site compliance inspections.

The Board, however, steadfastly supports Management's proper exercise of discretion in establishing mechanisms to obtain access to and review of information needed in connection with investigations it conducts. Within the past two years, Management has successfully obtained access to and reviewed needed records from over 25 grantees, and made substantial improvements in grantee compliance with the Case Service Reports ("CSR") system of case statistics.

Management's experience with mechanisms such as the ones criticized by the IG has been positive and enjoys the support of the Board. The additional funds requested would greatly enhance LSC's ability to ensure compliance with congressional requirements and restrictions, to monitor and improve the accuracy of its CSR system, and to conduct on-site compliance investigations.

Alleged Undermining of OIG Access

During the reporting period, the IG complained to the Congress that actions by certain members of the LSC leadership had served to undermine the OIG's access to grantee records necessary to the OIG's discharge of its functions. This, we believe, simply reflects a misunderstanding which the Board later took up and discussed with the IG in a public session meeting of the Board.

By way of background, in June 2000 the IG informed the Board that the OIG was seeking to develop a "tool" to help LSC grantees better serve their clients. The IG was encouraged by the Board to seek the collaboration and cooperation of grantee programs and to involve them in the design of the project, in an effort to insure that the data produced by the study would be useful to programs. The IG expressed his agreement with this approach but three weeks later, suddenly and without any explanation, the two Georgia programs selected for the "longitudinal study" were served with subpoenas which demanded extensive, detailed information covering a ten year period.

There existed some question about the authority of the OIG to perform any of LSC's program operating responsibilities (which the IG Act provides shall not be transferred to the OIG), and there was a related question about the prescribed role and responsibilities of the Board as "head of the agency" in non-audit, non-investigatory activities of the OIG that seemed programmatic in nature and involved the expenditure of

substantial funds. However, there was no attempt by any member of the LSC leadership to “interfere” with subpoenas issued or the study being conducted by the IG, nor was there any intention or effort on the part of LSC leadership to encourage programs identified for the study to resist the subpoenas. The Board merely sought information concerning the process in order to determine its appropriate role in the matter, and LSC management simply sought to assure programs that it was not prepared, at that time and without further information, to support the IG’s issuance of subpoenas to obtain information in a matter that was neither an audit nor investigation.

Investigations

During the reporting period, LSC management reviewed the referrals resulting from the Inspector General’s ten (10) on-site Client Trust Fund Inspections. The review noted that no further follow-up was necessary by LSC management.

TABLE 1
Management Report on
Office of Inspector General Audit Reports of Grantees
Issued With Questioned Costs
For the Six-Month Period Ending September 30, 2000

	Number of Reports	Questioned Costs	Unsupported Costs
A. Audit Reports for grantees on which no management decision had been made by the commencement of the reporting period.	0	\$0	\$0
B. Audit Reports issued during the reporting period.	0	\$0	\$0
Subtotals (A + B)	0	\$0	\$0
C. Audit Reports for which a management decision was made during the reporting period:	0	\$0	\$0
(i) Dollar value of recommendations that were agreed to by management	0	\$0	\$0
(ii) Dollar value of recommendations that were not agreed to by management	0	\$0	\$0
D. Audit Reports for which no management decision had been made by the end of the reporting period.	0	\$0	\$0
Audit Reports for which no management decision had been made within six months of issuance.	0	\$0	\$0

TABLE 2

**Management Report on Audit Reports Issued During
The Six-Month Period Ending September 30, 2000,
With Recommendations That Funds Be Put to Better Use**

	Number of Reports	Dollar Value
A. Audit Reports for which no management decision had been made by the commencement of the reporting period.	0	\$0
B. Audit Reports issued during the reporting period.	0	\$0
Subtotals (A+B)	0	\$0
C. Audit Reports for which a management decision was made during the reporting period:	0	\$0
(i) Dollar value of recommendations that were agreed to by management		
(ii) Dollar value of recommendations that were not agreed to by management.		
D. Audit Reports for which no management decision had been made by the end of the reporting period.	0	\$0
Audit Reports for which no management decision had been made within six months of issuance.	0	\$0