

**LEGAL SERVICES CORPORATION  
OFFICE OF INSPECTOR GENERAL**

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



**Grantee: Central California Legal Services  
Recipient No. 805060**

**Report No. AU04-05**

**August 2004**

**[www.oig.lsc.gov](http://www.oig.lsc.gov)**



August 10, 2004

Mr. Chris A. Schneider  
Executive Director  
Central California Legal Services  
1999 Tuolumne St., Suite 700  
Fresno, Ca. 93721

Dear Mr. Schneider:

Enclosed is our final audit report of Central California Legal Services' compliance with private attorney involvement (PAI) requirements of 45 CFR Part 1614. Your comments on the draft report are included as Appendix 1. The final report includes five recommendations.

Your response to the draft report indicates that you have substantially agreed with three of the five recommendations made; addressing oversight and follow-up, productivity and statistical reporting. We have considered your response on the recommendation addressing PAI expenditures and the related recommendation on the need to request a waiver. We do not find that your response supports the allowance of any of the expenditures identified in this report in PAI for 2002. All of the recommendations will remain open until we receive a corrective action plan documenting the corrective action taken. Please provide us with the plan within 30 days of this letter.

A copy of this report is also being sent to the Chair of the Board of Directors of your program and to LSC management.

Thank you and all your staff for the cooperation and courtesy extended to the auditors. If you have any questions about the report, please contact David L. Gellman at 202-295-1665 or me at 202-295-1651.

Sincerely,

A handwritten signature in cursive script that reads "Leonard J. Koczur".

Leonard J. Koczur  
Acting Inspector General

Enclosure

cc: Legal Services Corporation  
John Idleman  
Michael Genz

**LEGAL SERVICES CORPORATION  
OFFICE OF INSPECTOR GENERAL**

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



**Grantee: Central California Legal Services  
Recipient No. 805060**

**Report No. AU04-05**

**August 2004**

**[www.oig.lsc.gov](http://www.oig.lsc.gov)**

## TABLE OF CONTENTS

	Page
<b>RESULTS OF AUDIT.....</b>	<b>1</b>
<b>OVERSIGHT AND FOLLOW-UP .....</b>	<b>1</b>
<b>RECOMMENDATION .....</b>	<b>2</b>
<b>PRODUCTIVITY .....</b>	<b>2</b>
<b>RECOMMENDATION .....</b>	<b>4</b>
<b>PAI EXPENDITURES.....</b>	<b>4</b>
<b>RECOMMENDATIONS .....</b>	<b>5</b>
<b>STATISTICAL REPORT .....</b>	<b>6</b>
<b>RECOMMENDATION .....</b>	<b>6</b>
<b>BACKGROUND .....</b>	<b>6</b>
<b>OBJECTIVES, SCOPE and METHODOLOGY .....</b>	<b>6</b>
<b>SUMMARY OF GRANTEE'S COMMENTS ON DRAFT REPORT AND OIG'S RESPONSE.....</b>	<b>8</b>
<b>APPENDIX I – Grantee Comments .....</b>	<b>I - 1</b>
<b>APPENDIX II - OIG On-Site Audit Team .....</b>	<b>II - 2</b>

## RESULTS OF AUDIT

The Legal Services Corporation (LSC), Office of Inspector General (OIG) conducted this audit to evaluate Central California Legal Services (grantee) compliance with the Private Attorney Involvement (PAI) regulation (45 CFR 1614). This regulation requires the grantee to spend an amount equal to 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.

The grantee did not comply with all requirements of 45 CFR 1614, and related statistical reporting requirements. Specifically the grantee:

- did not provide adequate oversight and follow-up for cases referred to private attorneys (1614.3(d)(3)).
- did not close sufficient PAI cases to meet the goal that the market value of PAI activities substantially exceeded the costs as stated in (1614.1(c)) (Productivity).
- overstated PAI expenditures and did not meet the 12.5 percent expenditure requirement for 2002 by a small amount (1614.1(a)).
- 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 documented oversight or follow-up to ensure the prompt disposition of cases referred to private attorneys by the Fresno office as required by Section 1614.3(d)(3). The problem was only in the Fresno office. The Visalia Branch Office provided adequate oversight and follow-up.

A sample of ten Fresno office cases was selected for review. The file for one case could not be located and, therefore, was not reviewed. Although the grantee followed up on the remaining nine cases between November 2003 and January 2004, prior to November, there were significant gaps in the follow-up for most cases. The grantee did not contact the private attorneys handling seven of the cases for over six months. Two examples illustrate the problem:

Case A was opened and assigned to a private attorney in August 2001. The attorney was not contacted until July 2002, and the only subsequent contact occurred in December 2003.

Case B was opened and assigned to a private attorney in February 2002. Follow-up with the attorney did not occur until August 2002. The next follow-up occurred in December 2003.

In commenting on the draft report, the grantee stated that the former CCLS PAI coordinator received "numerous informal updates on the cases" and that CCLS had implemented in October 2003 procedures requiring the staff to follow up with private attorneys to determine the status of cases at least quarterly. As stated previously, however, there was no documentation of follow-up for extended periods of time in 2002 and 2003. Over 90 percent of the PAI cases are brief services, requiring brief follow-up work. Periodically following up on the relatively few extended services cases should not be time consuming.

The OIG recognizes that following up on the status of PAI cases presents some difficult challenges for the grantee. In this grantee's situation, the private attorneys are generally taking the cases pro bono and their involvement 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 the grantee's staff, and should ensure the timely disposition of cases as required by the regulation.

## RECOMMENDATION

We recommend that the Executive Director

1. Monitor procedures to ensure staff follows up at least quarterly with private attorneys on the status of PAI cases and documents the contacts.

## PRODUCTIVITY

In 2002, the grantee closed a small number of PAI cases relative to the amount of money invested in the PAI program. The grantee reported 165 closed cases for the year, with adjusted expenditures of \$263,292. This performance is significantly below the national average.

The purpose of Section 1614 is to ensure that grantees involve private attorneys in the delivery of legal services to clients. In following this mandate, grantees are

encouraged to ensure that the market value of services provided by private attorneys exceeds the costs of providing the services. One method of measuring the market value of legal services provided is to evaluate case productivity—both the number of cases and the level of service provided in those cases. There are some mitigating factors that could reduce the number of cases closed: (1) some PAI activities such as community education do not directly generate PAI cases; (2) a high percentage of extended service cases may contribute toward lowering the total number of cases; and (3) there is some variation in the time and effort required for cases within the same “level of service” category.

The grantee closed 165 PAI cases in 2002, which represented 2.38 percent of the total cases closed by the grantee. For 2002, the national average for PAI case closures as a percentage of total case closures was 11.82 percent. The small number of closed PAI cases was not attributable to the mitigating factors identified above. The grantee reported that 15 of its 165 PAI cases, or about 9.1 percent, were extended service cases.

For 2002, the national average for PAI extended service cases as a percentage of total PAI cases was about 31.7 percent. The grantee’s adjusted charges to PAI for 2002, totaled \$263,292. Most of this amount resulted from direct and indirect charges for two full-time staff dedicated to PAI. As a result, the grantee’s cost per PAI case was \$1,595 for 2002, compared to the national average of \$386 per PAI case.

The cost per PAI case in the Visalia office was substantially lower than in the Fresno office. A paralegal in Visalia dedicated 200 hours per year to coordinating a pro se clinic and generated 56 PAI cases. The cost per case was less than \$200 per case. The 109 cases reported by the Fresno office cost over \$2,300 per case.

The grantee’s PAI pro bono program is focused on providing legal services directly to clients. It does not include co-counseling cases or community legal education, activities that do not generate cases. Most of the legal services provided are limited services cases. Case productivity, therefore, should at least approximate the national average.

The Executive Director stated that he was implementing some initiatives to encourage more participation by private attorneys. Plans were being made to open a clinic at a senior center where volunteer attorneys could provide legal services to the elderly. The State Bar Association was considering permitting “unbundling cases.” This would enable the grantee to assign the longer-term aspects of a case to staff attorneys, resulting in a shorter term commitment for pro bono attorneys. The recent establishment of a video training center in the Fresno office would provide additional training for private attorneys and, according to the Executive Director, would encourage greater participation in the pro bono program. The hiring of an attorney in October 2003 as Director of the

pro bono program (the former coordinator was not an attorney) also would encourage more private attorneys to participate in the program, in the Executive Director's view.

RECOMMENDATION

We recommend that the Executive Director:

2. Monitor the PAI program to evaluate the effectiveness of the new initiatives and consider adopting alternative methods (such as reduced fee contracts) for delivering legal services.

PAI EXPENDITURES

The grantee's PAI expenditures were \$9,356 less than required. Part 1614.1(a) requires grantees to devote an amount equal to at least 12.5 percent of their annualized basic field grant to PAI. The grantee's 2002 annualized grant was \$2,181,186, and its PAI requirement was \$272,648. The grantee's PAI expenditures were \$9,356 less than required, resulting in the grantee expending 12.07% rather than 12.5% of its annualized grant. This occurred because PAI expenditures were overstated by \$82,712.

The grantee's financial records showed that \$346,004 was spent on PAI activities. This amount was overstated by \$82,712 as shown in the following chart:

Reported PAI Expenditures			\$346,004
Adjustments:	Salary overcharges	\$64,547	
	Consulting contract	16,165	
	Newsletter	<u>2,000</u>	
Total Adjustments			<u>(82,712)</u>
Adjusted PAI Expenditures			\$263,292

During the audit, the grantee identified \$64,547 in salaries and related benefits that were improperly charged to PAI. The entire cost of salaries and benefits for two intake clerks was charged to PAI. The OIG identified an additional \$18,165 improperly charged to PAI. The grantee charged \$16,165 to PAI for consulting

fees paid to an out-of-state contractor for advice on improving fundraising. The consultant's work was unrelated to PAI activities. The grantee also charged \$2,600 of the \$4,000 total cost of quarterly newsletters to the PAI program. The newsletters were directed to a broad array of organizations and clients served by the grantee. PAI should have been charged in proportion to its percentage of total funding. We estimated that \$600 was the appropriate amount that should have been allocated to PAI.

The overcharges occurred because the grantee does not have procedures requiring the periodic review of costs charged to the PAI program. Establishing such procedures should allow the detection of erroneous PAI charges, and ensure that in the future, the grantee will meet the PAI requirement.

In addition to the overcharges, the grantee improperly calculated the amount that it was required to spend on PAI. Section 1614.1(a) requires grantees to spend an amount equal to at least 12.5 percent of their annualized basic field grant on PAI. The recipient, however, used the amount received from LSC during 2002, \$1,837,618, instead of the annualized basic field grant of \$2,181,186 to compute its PAI requirement. As a result, the PAI requirement was understated by \$42,946 as shown in the following calculation:

$$\$1,837,618 \times 12.5\% = \$229,702$$

$$\$2,181,186 \times 12.5\% = \$272,648$$

$$\text{Understatement} = \$42,946$$

The incorrect calculation apparently resulted from the grantee's misunderstanding of the PAI requirement. We informed the grantee of the correct way to compute the amount that must be spent on PAI and do not expect the problem to reoccur.

### RECOMMENDATIONS

We recommend that the Executive Director:

3. Establish procedures requiring the individual responsible for the financial system to periodically review direct and indirect charges to PAI to ensure they are accurate and reasonable.
4. Request a waiver of the PAI requirement from the Office of Compliance and Enforcement in accordance with Part 1614.6.

## STATISTICAL REPORT

The grantee's statistics on the attorneys participating in the PAI program for 2002 were inaccurate. LSC requires grantees to annually submit the J-1 Report—Components of PAI. Grantees are to report the number of attorneys that agreed to participate in the PAI program and the number of attorneys that accepted referrals during the reporting period. For 2002, the grantee reported that 136 attorneys agreed to participate and 96 accepted referrals. The grantee's supporting documentation showed that 163 attorneys agreed to participate and 40 accepted referrals in 2002. The inaccurate reporting occurred because data and supporting documentation was not reviewed by a supervisor prior to submission to LSC.

## RECOMMENDATION

We recommend that the Executive Director:

5. *Establish procedures requiring the PAI program director to review and verify data on the J-1 report prior to its submission to LSC.*

## **BACKGROUND**

Central California Legal Services, Inc. is a non-profit corporation established to provide legal services to indigent persons who meet applicable eligibility requirements. This grantee is headquartered in Fresno, California, with branch offices in Merced and Visalia. The grantee has total staffing of approximately 60 employees, about one third of whom are attorneys. The grantee received an LSC basic field grant of \$2,181,186 for 2002. The PAI program, as reflected in the statistical data, focuses on family law cases (70%) with a high percentage of limited service cases (90%).

## **OBJECTIVES, SCOPE AND METHODOLOGY**

The purpose of the audit was to evaluate compliance with requirements established in 45 CFR 1614, relating to private attorney involvement (PAI), including effectiveness and efficiency of PAI programs (Sec. 1614.1(c)). The on-site portion of this audit was performed from January 26, 2004 to January 28, 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, 2002, through December 31, 2002, focusing on statistical and accounting data reported for that time period. The OIG reviewed grant applications, audited financial statements and statistical data reported. The OIG interviewed the Executive Director and the Volunteer Legal Services Program (VLSP) Director (in-house pro bono program coordinator) as well as the Fiscal Director at the headquarters office in Fresno. In addition, the OIG interviewed the Managing Attorney and the paralegal who coordinated the pro se clinic at the Visalia Office. The OIG performed the following specific tests:

1. Planning - Reviewed and evaluated the grant application for 2002. Interviewed Office of Performance and Planning and the Office of Compliance and Enforcement staffs to obtain background on prior reviews and evaluations. Interviewed the Executive Director and VLSP Director 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 grantee’s audited financial statements for 2002. 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 2002. 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 two offices.

## SUMMARY OF GRANTEE'S COMMENTS ON DRAFT REPORT AND THE OIG'S RESPONSE

### GRANTEE COMMENT-OVERSIGHT AND FOLLOW-UP

The grantee took exception to the statement that CCLS had not implemented procedures requiring staff to periodically follow up with private attorneys to determine the status of cases. The PAI coordinator had frequent, informal contact with PAI attorneys and received "informal updates" on the cases. In 2002, the grantee identified systemic, formal, documented follow-up on cases with PAI attorneys at least quarterly as an area that needed improvement. Further, CCLS indicated that the new CCLS coordinator had implemented the new procedures requiring documented follow-up beginning in October 2003, when the new PAI coordinator was hired.

The grantee indicated that the recommendation has been implemented.

### OIG RESPONSE

The OIG modified the finding and recommendation to reflect the grantee's adoption of systemic, formal, documented follow-up. For most of the time that the sampled cases were open, however, such a system was not in place.

### GRANTEE COMMENT-PRODUCTIVITY

CCLS agreed with the finding that there is a need to increase productivity, but disagreed with the "focus" in the finding on reduced fee contracts. CCLS stated that payment of reduced fee contracts to some attorneys would make recruitment of pro bono attorneys more difficult. An analysis was provided of possible reduced fee contract expenses, assuming a fairly high hourly rate (\$100) and a substantial number of hours (1000), that showed a total expense of \$100,000. CCLS concluded that such an additional cost would reduce legal services that they could provide.

The grantee agreed to the recommendation except for consideration of reduced fee contracts.

### OIG RESPONSE

The OIG disagrees with the comments. The use of reduced fee contracts would not necessarily make recruiting pro bono attorneys more difficult. For example, CCLS could utilize reduced fee contracts only in those rural

areas where there are currently few or no pro bono representations. CCLS could continue to rely exclusively on pro bono representations in less rural areas where attorneys are more readily available. Such a model of both pro bono and reduced fee representations is successfully utilized by other recipients. The CCLS assumption that there would be “additional costs” amounting to \$100,000 is not necessarily valid. For example, CCLS could reduce the number of staff hours currently dedicated to coordinating PAI by the cost of any reduced fee contract payments. Absent a substantial increase in pro bono cases, the need for dedicating two full-time employees is questionable. In any case, the OIG offered the use of reduced fee contracts as one option to increase productivity. The report does not “focus” on the contracts, but suggests that they are one alternative way of improving PAI productivity.

#### GRANTEE COMMENT-PAI EXPENDITURES

The grantee disagreed with the finding that its PAI expenditures were \$9,356 less than required in 2002. First, CCLS does not agree that \$16,165 charged to PAI for consulting fees for advice on fundraising is unrelated to PAI. According to the grantee, this consulting fee was paid for the specific purpose of developing a private bar campaign designed to promote and encourage private attorneys to donate money and time to CCLS. Further, CCLS argues that attorneys who donate time to legal aid are also likely to donate money and vice versa. CCLS also disagreed with the OIG’s conclusion that a \$2,600 charge to PAI for quarterly newsletters in 2002 was excessive. CCLS stated that approximately 65 to 70 percent of persons on the newsletter mailing list were private attorneys and that the allocation of charges (\$2,600 of the total \$4,000 cost) to PAI is reasonable.

The grantee agreed to implement procedures addressing the staff time overcharges portion of the recommendation, but did not agree with the other overcharges.

The grantee did not agree to the recommendation to request a waiver, arguing that they exceeded the PAI expenditure requirement.

#### OIG RESPONSE

The OIG disagrees with CCLS on both the consulting fee for fundraising and on the allocation for the newsletters.

The consulting contract details the following work efforts:

“(1) Assessing the potential for increased financial support...including private bar fundraising, government funding, cy

pres awards, foundation, corporate and other private support., (2) Special emphasis on assessing the potential for increasing support through an annual private bar campaign as well as through foundation and corporate funders., (3) Reviewing, evaluating and making recommendations on the organizational capacity of CCLS to develop and implement appropriate fundraising activities., (4) Providing training to CCLS staff and board of directors to increase their capacity to engage in successful local fundraising., (5) Assist in the development of an effective strategy for marketing the work of CCLS to the funding and broader community., (6) Providing such other support as may be necessary to assist in the formation of achievable fundraising goals and strategies....”

Although CCLS’s assertion that attorneys who donate money to legal aid are also likely to donate time may be valid, the express purpose of this contract was to improve fundraising. This expenditure is not allowable as a PAI expenditure.

The OIG disagrees with CCLS that the number of private attorneys as a percentage of all those receiving its newsletter provides a reasonable basis for allocation to PAI. The Fall 2003 issue was seven pages long and includes only one explicit reference to PAI—a one half page notice encouraging participation in the Fresno County Bar Association Pro Bono Services Section. The newsletter primarily focuses on staff updates, CCLS Case Briefs and CCLS community activities. Consequently, the OIG applied a generous 15% (\$600) in computing the appropriate allocation for PAI—this exceeds the PAI expenditures as a percentage of total expenditures.

#### GRANTEE COMMENT-STATISTICAL REPORT

The grantee agreed to the recommendation to establish procedures requiring the PAI program director to review and verify data on the J-1 report.

Law Offices of  
**CENTRAL CALIFORNIA LEGAL SERVICES, INC.**

1999 Tuolumne Street, Suite 700, Fresno, California 93721  
Telephone: (559) 570-1200 ♦ Facsimile: (559) 441-7215  
Toll-Free: (800) 675-8001 ♦ [www.centralcallegal.org](http://www.centralcallegal.org)

July 26, 2004

Mr. Leonard J. Koczur  
Acting Inspector General  
Legal Services Corporation  
3333 K. Street, NW, 3<sup>rd</sup> Floor  
Washington, CD 20007-3522

**Via Fax: 202-337-6616**  
Original to follow via USPS

Re: Draft Audit of Private Attorney Involvement Program  
Grantee: Central California Legal Services  
Recipient No. 805060  
Comments of the Grantee

Dear Mr. Koczur:

Enclosed please find the comments of Central California Legal Services concerning the above referenced report.

If you have any questions please contact me at 559-570-1214.

I thank you for the courtesy and cooperation of your staff members who conducted the audit.

Sincerely,

  
Chris A. Schneider  
Executive Director

cc: CCLS Board Members

**Central California Legal Services  
Recipient No. 805060**

**Comments on Draft Audit of Grantee's Private  
Attorney Involvement Program**

**July 26, 2004**

**Prepared by:**

**Chris A. Schneider  
Executive Director  
Central California Legal Services**

CCLS hereby submits these comments to the draft audit report of the Legal Services Corporation (LSC), Office of Inspector General (OIG).

### **Results of Audit**

CCLS requests that the final audit report reflect the following:

CCLS has taken steps to provide better oversight and follow-up for cases referred to private attorney (1614.3(d)(3)). Prior to the audit CCLS had recognized that its prior informal oversight efforts needed improvement and began to take steps to do so.

CCLS agrees that productivity is important, but disagrees with the OIG's suggestion that "in order to close sufficient PAI cases to meet the goal that the market value of PAI activity substantially exceeded the costs as stated in (1614.1(c)), CCLS should consider instituting reduced-fee panels."

CCLS disagrees with the OIG's conclusion that it failed to meet its 12.5 percent expenditure requirement in 2002.

CCLS has agreed to establish a procedure requiring the PAI director to review and verify data on the J-1 report prior to its submission to LSC.

### **Findings and Recommendations**

CCLS comments on the finding and recommendations as follows:

#### **Oversight and Follow-up**

CCLS takes exception to the following statement:

"The grantee had not implemented procedures requiring the staff to periodically follow-up with private attorneys to determine the status of the cases."

During the audit the Executive Director informed the auditors of several important facts which are not reflected in this finding.

The Executive Director pointed out that the cases that tend to stay open for longer periods of time are complicated family law matters. Such cases are, by nature, held open longer than others. The number of PAI attorneys accepting the complicated family law cases was relatively few. The CCLS PAI coordinator had frequent, informal contact (such as at Bar functions, Domestic Violence Roundtable meetings, CCLS functions, etc.) with those attorneys and received informal updates on the cases.

In 2002 CCLS undertook a program restructuring, including a restructuring of the Voluntary Legal Services Program (VLSP). During that time the VLSP coordinator accepted a position with a private law firm. CCLS contracted with an attorney who had

numerous years of experience with the nationally recognized, award-winning San Francisco Bar Association Voluntary Legal Services Program (BASF/VLSP) to help in the restructuring of the CCLS/VLSP. Among the areas identified for improvement was a systemic, formal, documented follow-up procedure that involved at least quarterly contact with PAI attorneys. When the new VLSP coordinator was hired in October 2003 CCLS implemented that system, which was in effect at the time of the OIG audit.

The report should recognize that CCLS itself had identified this issue and had taken steps to implement and document quarterly contact with PAI attorneys before the audit occurred.

### **Recommendation**

As indicated above, CCLS itself identified the need for more frequent follow-up with PAI attorneys and had begun such follow-up prior to the OIG visit.

### **Productivity**

CCLS does not disagree with the need to increase productivity. That was the specific purpose of the restructuring of the CCLS/VLSP program in that mid part of 2002. It was with that goal in mind that CCLS obtained the services of someone with extensive experience with BASF/VLSP.

CCLS is very concerned with the draft audit's particular focus on "reduced fee contracts" and the failure of the draft audit to reflect the dialogue the auditors and the Executive Director had about this issue during the visit.

During the site visit the Executive Director discussed this issue several times with the auditors. He informed them that such an approach had indeed been considered by CCLS and was not implemented. *CCLS is convinced that a "reduced fee panel" would in fact reduce the amount of legal services available to our client community by reducing the amount of pro bono activity and decreasing the number of full time staff attorneys on CCLS staff.* The Executive Director articulated the reasons that CCLS believes this to be true.

CCLS provides services in six mostly rural counties. Even in the largest urban center in our service area, the number of attorneys providing pro bono work is relatively few. If CCLS were to pay a reduced fee to some attorneys to take cases and ask others to provide their services pro bono we believe that the pro-bono recruitment would become even more difficult.

Assuming that CCLS moved to a reduced fee panel, we would still need a VLSP coordinator and support staff. CCLS would need to expend other funds for the payment of the reduced fee. Thus, the only line item this could come from is personnel.

If we paid a reduced fee of \$100 per hour for 1000 hours of private attorney time, the cost would be \$100,000. One hundred dollars per hour is almost double the hourly rate, with benefits, of CCLS's most senior and most experienced attorney and four times the hourly rate, with benefits, of our entry level attorneys.

Thus, to have \$100,000 to purchase 1000 hours of private attorney time at reduced fees, CCLS would eliminate two full-time entry level attorney positions. There would be a net loss of about 3,000 hours of attorney time available to our clients. This does not factor in the additional loss of pro-bono time from private attorneys.

### **Recommendation**

CCLS will monitor our restructured PAI program to evaluate its effectiveness and will consider adopting alternative methods of delivery if we determine that such methods will result in a net *increase* in the availability of legal services to our client community. We see no need to further consider reduced fee panels at this time.

### **PAI Expenditures**

CCLS disagrees that its PAI expenditures were \$9,356 less than required in 2002. In our view, our PAI expenditures were \$281,457. This amount is \$ 8,809 more than required under Part 1614.

During the audit CCLS discovered that all, rather than a part of, costs of salaries and benefits of two intake workers charged as PAI expenditures. We met with the staff involved and took corrective action to insure that the problem would not reoccur. We then informed the auditors of our finding and of the corrective action taken. We agree that the \$64,547 for the intake worker's salaries should not have been counted as PAI expenditures.

However, we disagree with the OIG's conclusions with regard to two other PAI expenditures. First, the draft audit states:

"The grantee charged \$16,165 to PAI for consulting fees paid to an out-of-state contractor for advice on improving fund-raising. The consultant's work was unrelated to PAI."

The auditors failed to include key information which CCLS provided them. The "out-of-state contractor" was Dennis Dorgan of the Management Information Exchange (MIE). CCLS contracted with MIE and Mr. Dorgan for the specific purpose of developing a "private bar campaign" designed to promote and encourage private attorneys to donate money and time to CCLS. Called "The Campaign for Legal Aid" (CLA), the private bar campaign ties directly into and is an integral part of CCLS's multi-prong strategy to increase *pro bono* involvement. It has been demonstrated numerous times that attorneys who donate time to legal aid are also likely to donate money to legal aid and vice-versa.

In addition to launching the Campaign for Legal Aid, CCLS staff and members of CLA were involved in the creation of the Fresno County Bar Association (FCBA) Pro Bono Section (PBS). The PBS spearheaded an effort to get the FCBA to adopt its first ever pro bono resolution.

The Campaign for Legal Aid involves meeting with private attorneys to encourage them and their firms to become more involved with CCLS. It is designed to raise the awareness of the work of CCLS in the private bar community and to develop on-going financial *and volunteer* support for CCLS.

The American Bar Association encourages CLA type activity as a way for attorneys to meet their ethical obligation to provide *pro bono* services.

#### *RULE 6.1 VOLUNTARY PRO BONO PUBLICO SERVICE*

*Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:*

*(a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:*

*(1) persons of limited means or*

*(2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and*

*(b) provide any additional services through:*

*(1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;*

*(2) delivery of legal services at a substantially reduced fee to persons of limited means; or*

*(3) participation in activities for improving the law, the legal system or the legal profession.*

***In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means. (Emphasis added.)***

Comments 9 and 10 to Model Rule 6.1 are particularly instructive:

*[9] Because the provision of pro bono services is a professional responsibility, it is the individual ethical commitment of each lawyer. Nevertheless, there may be times when it is not feasible for a lawyer to engage in pro bono services. At such times a lawyer may discharge the pro bono responsibility by providing financial support to organizations providing free legal services to persons of limited means. Such financial support should be reasonably equivalent to the value of the hours of service that would have otherwise been provided. In addition, at times it may be more feasible to satisfy the pro bono responsibility collectively, as by a firm's aggregate pro bono activities. (Emphasis provided.)*

*[10] Because the efforts of individual lawyers are not enough to meet the need for free legal services that exists among persons of limited means, the government and the profession have instituted **additional programs** to provide those services. Every lawyer should financially support such programs, in addition to either providing direct pro bono services or making financial contributions when pro bono service is not feasible. (Emphasis provided.)*

The draft audit's characterization of CLS as merely "fund-raising" is misleading. The consulting fees paid to MIE for the development of a CLA are clearly allowable PAI expenditures. Consequently CCLS **exceeded** its PAI expenditure obligation in 2002.

Second, the draft audit states:

"The grantee also charged \$2,600 of the \$4,000 total cost of a quarterly newsletter to the PAI program. The newsletters were directed to a broad array of organizations and clients served by the grantee. PAI should have been charged in proportion to its percentage of total funding. We estimated that \$600 was the appropriate amount that should have been allocated to PAI."

Once again the draft report fails to include pertinent factual information provided by CCLS to the auditors. As drafted, the report makes it appear that the \$2,600 was an arbitrary amount which CCLS applied to PAI expenditures. It was not.

CCLS estimated that during 2002 approximately 65%-70% of the persons on our newsletter mailing list were private attorneys. The newsletter is another integral part of CCLS's strategy to promote *pro bono*. We focus the newsletter mailing list on private attorneys in order to make them aware of opportunities for them to become involved in

the delivery of legal services to our client community. In the newsletter we publicize the work of pro-bono attorneys, pro bono section activities, CLA, solicit volunteers, etc.

The \$2,600 represents 65% of the overall cost of the newsletter. That is, we charge off as PAI an amount equal to the approximate percentage of persons on the newsletter mailing list who are private attorneys. We believe that if the mailing list included **only** private attorneys, then the OIG would not question allocating 100% of the expenditure as PAI. Therefore, we believe it is reasonable and correct for us to charge as PAI expenditures the approximate percentage of the mailing list members who are private attorneys. The allocation for 2002 should remain at \$2,600 resulting in CCLS having **further exceeded** its PAI expenditure in 2002.

### **Recommendations**

3. CCLS already established procedures to assure that the over charging of staff time does not reoccur. We believe that the other charges in 2002 were accurate and reasonable.
4. We do not believe it is necessary for CCLS to request a waiver of the PAI requirement since CCLS in fact exceeded the requirement.

### **Statistical Report**

As indicated above, CCLS initiated a restructuring of its VLSP in 2002 after concluding there was a need to improve our VLSP program. The long-time VLSP coordinator left during that time and we had several interim coordinators. An unfortunate result of the flux was that there was not an experienced VLSP coordinator in place at the time of the submission of the 2002 J-1 Report.

### **Recommendation**

5. CCLS agrees with this recommendation contained in the draft report.

10. *Job Connection Mariposa*

11. *Senior Services Office*

12. *Mariposa County Public Library*

13. *Mariposa Indian Health Center*

14. *Kene Me-Wu Family Healing Center (Angels Camp)*

15. *Mariposa County Behavioral Health & Recovery Services*

16. *John C. Fremont Healthcare District*

17. *Community Action Agency, Mariposa County Housing Authority*

*(All are from the new Mariposa County Resource Guide just received)*

6. Weekly team report forms and "other matters" reporting

7. Merced computers

8. Annual awards reception September 30 (Luisa)  
Attorney lists for invitations

**New business:**

9. LSC renewal application (Luisa, Chris)

10. Malpractice Insurance renewal question (Valerie, Chris)

11. Team items

12. Executive director items

**Chris Schneider**

---

**From:** "Matthew Pendola" <mpendola@unitedwayfresno.org>  
**To:** <mpendola@unitedwayfresno.org>  
**Sent:** Tuesday, July 20, 2004 8:42 AM  
**Attach:** Matthew Pendola (E-mail).vcf; Agency Project Request.pdf; DOC Agency Project Letter.doc  
**Subject:** September 11th Day of Caring

Greetings,

United Way of Fresno County invites you to participate in our Annual Day of Caring event. Our vision is to create a community wide day of volunteering. Day of Caring is an annual United Way of Fresno County event in September where volunteers work on one-day improvement projects at local nonprofit agencies, schools and parks.

Day of Caring will be held on September 11, 2004. This one-day event connects individuals and employee volunteer groups with agencies in need of assistance. It is one of the best ways for individuals to make an impact in their community and for agencies to connect with people who want to help. Relationships begun during Day of Caring have proven to be beneficial well beyond the actual Day of Caring.

If your nonprofit has any one-day volunteer projects that that can fall on September 11th please fill out the attached Agency Project Registration Form.

Or if you need ideas to create a volunteer project, give me a call.

The attached documents give you the needed information to participate. Please read them carefully.

The deadline to participate is Friday July 30, 2004. So get your volunteer paperwork in early.

Thanks,

---

Matthew Pendola  
Events & Volunteer Coordinator  
United Way of Fresno County

Phone: 559.243.3664

Fax: 559.228.8159

[mpendola@unitedwayfresno.org](mailto:mpendola@unitedwayfresno.org) <<mailto:mpendola@unitedwayfresno.org>>

---

**Chris Schneider**

---

**From:** "Matthew Pendola" <mpendola@unitedwayfresno.org>  
**To:** <mpendola@unitedwayfresno.org>  
**Sent:** Tuesday, July 20, 2004 8:42 AM  
**Attach:** Matthew Pendola (E-mail).vcf; Agency Project Request.pdf; DOC Agency Project Letter.doc  
**Subject:** September 11th Day of Caring

Greetings,

United Way of Fresno County invites you to participate in our Annual Day of Caring event. Our vision is to create a community wide day of volunteering. Day of Caring is an annual United Way of Fresno County event in September where volunteers work on one-day improvement projects at local nonprofit agencies, schools and parks.

Day of Caring will be held on September 11, 2004. This one-day event connects individuals and employee volunteer groups with agencies in need of assistance. It is one of the best ways for individuals to make an impact in their community and for agencies to connect with people who want to help. Relationships begun during Day of Caring have proven to be beneficial well beyond the actual Day of Caring.

If your nonprofit has any one-day volunteer projects that that can fall on September 11th please fill out the attached Agency Project Registration Form.

Or if you need ideas to create a volunteer project, give me a call.

The attached documents give you the needed information to participate. Please read them carefully.

The deadline to participate is Friday July 30, 2004. So get your volunteer paperwork in early.

Thanks,

---

Matthew Pendola  
Events & Volunteer Coordinator  
United Way of Fresno County

Phone: 559.243.3664

Fax: 559.228.8159

[mpendola@unitedwayfresno.org](mailto:mpendola@unitedwayfresno.org) <<mailto:mpendola@unitedwayfresno.org>>

---

7/20/2004

*Connecting the Dots* -- Statewide Stakeholder Meeting  
Friday, August 27, 2004  
San Francisco

Name: \_\_\_\_\_

Program: \_\_\_\_\_

Contact Information:

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

\_\_\_\_\_ Yes, I would like to make my voice be heard and join in planning for the future of legal services in California at the "Connecting the Dots" Statewide Stakeholders Meeting. (10:00 a.m. – 5:00 p.m.)

\_\_\_\_\_ Yes, I would like to attend the Media Event celebrating our statewide websites at LawHelpCalifornia.org and courtinfo.ca.gov. (12 noon)

\_\_\_\_\_ Yes, I would be pleased to toast my colleagues in the legal community who have provided outstanding services to clients, and to celebrate 20 years of the Legal Aid Association of California at the LAAC Awards of Merit and 20<sup>th</sup> year Anniversary Reception (5:00 p.m.)

\_\_\_\_\_ Enclosed is a check for \$15 per person for Continental breakfast, lunch and materials. (Please specify if you would like a vegetarian lunch.)

Please mail, fax, or email this form to the Public Interest Clearinghouse, 47 Kearny Street, Suite 705, San Francisco, CA: Fax (415) 834-0202: slchoy@pic.org. For further inquiries, please contact Stephanie Choy: (415) 834-0100 ext. 304.

## **APPENDIX II**

### ***OIG On-Site Audit Team***

David Gellman (Auditor-in-Charge)

Abel Ortunio