

**LEGAL SERVICES CORPORATION
OFFICE OF INSPECTOR GENERAL**

**REVIEW OF GRANTEE'S
TRANSFER OF FUNDS
AND COMPLIANCE WITH
PROGRAM INTEGRITY STANDARDS**

**Grantee: Pine Tree Legal Assistance, Inc.
Recipient No. 120000**

**Report No. AU01-004
August 2001**

www.oig.lsc.gov

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RESULTS OF AUDIT

The Legal Services Corporation (LSC) Office of Inspector General (OIG) conducted this audit to determine whether Pine Tree Legal Assistance (PTLA or “grantee”) was in compliance with certain requirements of 45 CFR Part 1610. This regulation prohibits grantees from transferring LSC funds to an organization that engages in activities prohibited by the LSC Act and LSC appropriation acts, with one exception. The only exception is that LSC funds may be used to fund private attorney involvement (PAI) activities that an organization performs for the grantee. In addition, grantees must maintain objective integrity and independence from organizations that engage in restricted activities.

This audit provides reasonable, but not absolute, assurances that PTLA complied with Part 1610 between July 1, 1999 and May 31, 2001, the period covered by our review. During this time period, the grantee was not involved with organizations that engaged in restricted activities and LSC funds were not transferred to other legal organizations.

Although we found no problems with the grantee’s compliance with the program integrity standard, improvements are needed in two related areas. First, the grantee did not ensure that part-time advocates reported their outside employment and certified as required by 45 CFR Part 1635. Second, some cases filed in state district courts were not reported to LSC as required by 45 CFR Part 1644.

No Certifications for Some Part time Advocates

Six part time advocates did not document whether they were employed by another legal organization. As a result, PTLA did not have certifications for these part-time advocates and therefore did not satisfy the requirements of 45 CFR Part 1635.

This regulation requires LSC grantees to maintain certifications for part time advocates who also work for organizations that engage in restricted activities. The advocates are required to certify that they did not work on prohibited activities while being paid with LSC funds. These certifications are to be made quarterly and maintained by the grantee.

The grantee has a process for identifying part-time advocates who are employed by organizations engaged in restricted activities. At the end of each quarter the part-time advocates are sent a notice informing them that certifications are due. Those not employed outside of PTLA respond via e-mail that they have no outside employment. Part time attorneys and paralegals with outside employment are required to certify in writing that they have not engaged in prohibited activities while paid with LSC funds. No evidence came to our attention that any grantee attorney or paralegal engaged in restricted activity during any time for which he/she was compensated by the grantee or

used grantee resources for restricted activities. However, the OIG identified instances for which no determination by the grantee was made as to whether the part-time advocate was involved in outside employment.

Six part-time advocates did not respond to requests for information on employment with other organizations. They provided neither a statement that they had no outside employment nor the required certification. Most of the problem occurred for the fourth quarter of 2000 when five part-time advocates did not provide a certification or an e-mail indicating they did not have other employment. Although the required certifications and e-mails were not prepared, we found no evidence that the advocates engaged in restricted activity while paid by the grantee or used grantee resources for restricted activities.

Grantee management stated that the lack of documentation was an unintentional oversight by the part-time advocates. We noted, however, that PTLA does not have procedures to ensure that part-time advocates provide the required documentation on other employment. At the conclusion of the audit fieldwork, the grantee was trying to obtain certifications or statements that the part-time advocates were not employed by another organization.

PTLA needs to implement a follow-up tracking system to ensure that all part-time advocates acknowledge whether they are also employed by an organization that engages in restricted activities and that they provide certifications when required.

Court Cases Not Reported To LSC

PTLA did not report to LSC all the cases it filed in court as required by 45 CFR Part 1644. For calendar year 2000, PTLA reported that 25 cases were filed in the state district courts located in Portland, Bangor and Machias. Seven additional cases were not reported.

Part 1644 of the regulations requires grantees to report to LSC each case it filed in a court. This requirement applies to all filed cases including those not funded by LSC. The information, including the name of each party to the case and the cause of action, must be submitted to LSC in semiannual reports for the periods ended June 30th and December 31st of each year. Grantees are required to adopt written policies and procedures to implement this regulation.

PTLA has unwritten procedures for meeting the reporting requirement. The attorneys who file the cases are responsible for providing the case information to the main office where the information is recorded on a Semiannual Case Disclosure form and reported to LSC.

These procedures were not followed for the seven unreported cases and the required information was not recorded on the Semiannual Case Disclosure form.

Grantee management agreed and explained that the unreported cases were unintentional oversights by the individual attorneys.

PTLA should adopt formal written policies and procedures to ensure that it complies with 45 CFR Part 1644. The written procedures should establish a systematic process for the collection and reporting of case disclosure information. The Executive Director, or a designated management official, should review the Case Disclosure Report prior to its submission to LSC. In addition, PTLA's full and part-time attorneys should be reminded of the case disclosure requirements and their reporting responsibilities.

RECOMMENDATIONS

We recommend that PTLA management:

1. Implement a tracking system to ensure that all part-time advocates acknowledge whether or not they are employed by an organization that does restricted activities and that required certifications are provided.
2. Adopt formal, written policies and procedures to implement the case reporting requirements of 45 CFR 1644.
3. Formally remind PTLA attorneys of their responsibilities for reporting case disclosure information.

SUMMARY OF GRANTEE'S COMMENTS ON DRAFT REPORT

The grantee's comments indicated agreement with the audit's findings and recommendations and discussed the action taken to implement each recommendation.

The grantee commented on a perceived error in the draft report concerning the number of docketed cases reported to LSC for calendar year 2000. The grantee stated that it reported 68 cases for the year 2000, as opposed to the 25 cases identified in the draft report.

The grantee's comments are in Appendix II.

OIG RESPONSE TO GRANTEE COMMENTS

Records provided by LSC management indicate that the grantee reported 58 docketed cases for calendar year 2000. These cases were filed in 20 state and federal courts located throughout the state of Maine. Our review only covered cases docketed in the state district courts located in Portland, Bangor and Machias. As stated on page 2 of the report, the grantee reported that 25 cases were docketed in these three courts. Therefore, we did not modify the report.

BACKGROUND

PTLA is a nonprofit corporation established to provide legal services to indigent individuals who meet eligibility guidelines. Its priorities include housing, family, and public benefits. The grantee is headquartered in Portland, Maine, and maintains four branch offices throughout the state. It is staffed with 24 attorneys, 15 paralegals, and 13 other employees, who assist case handlers and provide administrative support services. PTLA received total funding of over \$3.08 million during their most recent fiscal year, which ended December 31, 2000. LSC provided in excess of \$1.1 million or about 36 percent of the total funds received by PTLA during that year.

Grantees are prohibited from transferring LSC funds to another person or organization that engages in restricted activities except when the transfer is for funding PAI activities. In these instances the prohibitions apply only to the LSC funds that were transferred to the person or entity performing within the PAI program. Grantees must also maintain objective integrity and independence from organizations that engage in restricted activities.

OBJECTIVES, SCOPE, AND METHODOLOGY

This audit assessed whether PTLA complied with requirements established in 45 CFR Part 1610 relating to the transfer of funds to other organizations and program integrity standards.

Our review covered the period July 1, 1999 through May 31, 2001. The OIG began this audit work in May 2001 and visited PTLA in Portland, Maine, between June 4 and June 14, 2001. At LSC headquarters in Washington, DC, we reviewed materials pertaining to PTLA including its Certifications of Program Integrity, audited financial statements, grant proposals, and recipient profile. OIG staff discussed issues relating to PTLA with LSC management officials.

During the on-site visit, the OIG interviewed and collected information from the Executive Director, Assistant Director, Directors of Training and Litigation, attorneys, paralegals, Fiscal Manager, and other staff. We visited the PTLA branch offices located in Augusta and Bangor. We ascertained whether PTLA employees were generally knowledgeable regarding the guidelines set forth in Part 1610. The audit included an assessment of PTLA policies and procedures applicable to the transfer of funds to other organizations and program integrity requirements.

The OIG gained an understanding of the client intake process utilized by PTLA and its pro bono component, Volunteer Lawyers Project. Pleadings from selected cases were reviewed to verify that the case activity was not a restrictive or prohibited activity.

The OIG reviewed the grantee's financial accounts for vendors including organizations, contractors, employees, and former employees. From the 564 vendors identified in PTLA's Master Vendor List, we judgmentally selected 42 vendors to examine individual transactions. PTLA completed transactions with 37 of the 42 vendors during our period of review. We reviewed 156 of these transactions, totaling almost \$84,000. Most accounts were reviewed in their entirety. Some accounts were judgmentally tested due to time constraints.

The OIG assessed the process used by PTLA to allocate direct and indirect costs to LSC and non-LSC funds. Policies and procedures relating to payroll and timekeeping were evaluated. Attorneys and paralegals at PTLA were interviewed to determine their understanding as to which fund they should charge their time relative to case handling.

All agreements between PTLA and other organizations and individuals were requested. The OIG reviewed all materials provided including grant funding instruments, leases, contracts, and co-counsel arrangements. The OIG identified the grantee's controls applicable to monitoring pro bono attorneys under its PAI program, the Volunteer Lawyers Project.

We performed this audit in accordance with *Government Auditing Standards* (1994 revision) established by the Comptroller General of the United States and under authority of the Inspector General Act of 1978, as amended and Public Law 105-277, incorporating by reference Public Law 104-134, §509(g).

LISTING OF FINDING AND ASSOCIATED RECOMMENDATIONS

- 1: No Certifications for some part time advocates (page 1).
Recommendation #1

- 2: Case Disclosure Forms did not report all cases filed (page 2).
Recommendations # 2,3

PINE TREE LEGAL ASSISTANCE, INC.

http://www.ptla.org
88 Federal Street
P.O. Box 547
Portland, ME 04112-0547
(207)-774-4753 TTY 828-2308 FAX 828-2300

July 27, 2001

Leonard J. Koczur
Acting Inspector General
Legal Services Corporation
750 1st ST NE 11th Floor
Washington, D.C. 20002-4250

Nan Heald
Executive Director

Elinor Miller
Assistant Director

Re: Comments on Draft Report of OIG Audit
of Pine Tree Legal Assistance, Grantee No. 120000

Augusta Office
39 Green Street
P.O. Box 2429
Augusta, ME 04338-2429
622-4731
Fax: 623-7774

Dear Mr. Koczur:

Bangor Office
Coe Building
61 Main Street
Bangor, ME 04401-6374
942-8241
Fax: 942-8323

I am responding to the Draft Report on the results of the audit of Pine Tree Legal Assistance by your office in June of this year. We are pleased that the Report confirmed Pine Tree's compliance with 45 CFR 1610, the program integrity requirement that was the focus of this audit report.

Portland Office
88 Federal Street
P. O. Box 547
Portland, ME 04112-0547
774-8211
Fax: 828-2300

I found only one error in the draft Report, at page 2, which suggests that Pine Tree "reported 25 cases" pursuant to 45 CFR 1644 for calendar year 2000. In fact, the two semi-annual reports filed with LSC for 2000 document that Pine Tree staff reported 68 cases during the year. I am willing to provide additional copies of those semi-annual reports to your staff, if that would be helpful to this point of clarification.

Presque Isle Office
373 Main Street
Presque Isle, ME 04769
764-4349
Fax: 764-2455

- (1) Compliance with 45 CFR 1635: Your report notes the need for a follow-up tracking system to insure that all part-time advocates acknowledge whether they are also employed by an organization that engages in restricted activities and that they provide certifications when requested.

Farmworker and
Native American Units
Coe Building
61 Main Street
Bangor, ME 04401-6374
942-0673
Fax: 942-8323

As the draft Report notes, Pine Tree's Administrative staff have consistently requested information of its part-time advocates regarding their outside employment and have spoken with all part-time staff to identify those part-time advocates who also work for other employers; however, part-time advocates **without** other employment have not consistently responded to the periodic requests for information. Consistent with your staff recommendation, the Fiscal Manager has instituted a new tracking system that identifies all of the part-time advocates at Pine Tree and monitors their response to the requests for information that our office has consistently issued. The new system allows us to identify individuals who have not yet responded in order to secure a response in a timely manner.

Outreach Numbers
Lewiston
784-1558

Machias
255-8656

Leonard Koczur

July 27, 2001

Page 2

- (2) Compliance with 45 CFR 1644: Your report recommended adoption of a formal written policy to implement the case reporting requirements of this regulation. It also recommended that Pine Tree “formally remind” its attorneys of their responsibilities for reporting case disclosure information.

A copy of the new program policy, adopted by our Board of Directors at a regularly scheduled Board meeting on July 18, 2001 in response to this recommendation, is enclosed.

Your report also recommended the need to “formally remind” Pine Tree attorneys of their responsibilities for case disclosure information. I circulated an email to all staff following the OIG audit to remind them of this compliance issue and subsequently reviewed the requirement with all staff at our program wide retreat on June 19.th Our managers have also held individual discussions with staff attorneys funded by non-LSC grants since 6 of the 7 unreported cases were handled by special family law fellowship attorneys who were less appreciative of this requirement.

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized initial 'N' followed by a long horizontal stroke.

Nan Heald
Executive Director

cc: PTLA Board President

Pine Tree Legal Assistance Policy on Compliance with 45 CFR 1644

All attorneys employed at Pine Tree Legal Assistance will provide the Administrative Office with the necessary case disclosure information required under 45 CFR 1644. This information will be provided for the following cases, regardless of the funding source used to support the work:

- (1) To actions filed on behalf of plaintiffs or petitioners who are clients of Pine Tree Legal Assistance ~~a recipient~~;
- (2) Only to the original filing of a case, except for appeals filed in appellate courts if Pine Tree Legal Assistance ~~the recipient~~ was not the attorney of record in the case below and the ~~recipient's~~ Pine Tree client is the appellant;
- (3) To a request filed on behalf of a client of the recipient in a court of competent jurisdiction for judicial review of an administrative action; and
- (4) To cases filed pursuant to subgrants under 45 CFR part 1627 for the direct representation of eligible clients, except for subgrants for private attorney involvement activities under part 1614 of this chapter.

In order to meet the program's obligation to provide this information in a timely manner to the Legal Services Corporation, the administrative office should receive a timely copy of all Civil Summary Sheets filed in connection with these cases under Rule 5(h) of the Maine Rules of Civil Procedure or the comparable federal Rule, which also includes the Court Docket Number assigned to the case. However, if this is not practical at the time, Pine Tree attorneys should promptly forward all such copies (together with information about any other case that appropriately falls within the scope of the case disclosure requirement) when requested to do so by the administrative staff of Pine Tree.

OIG STAFF RESPONSIBLE FOR THE AUDIT AND THE REPORT

Anthony M. Ramirez (Auditor-in-charge)

David Young

Abel Ortunio