

October 30, 2001

Mr. Laurence H. Hamblen
Executive Director
Lane County Legal Aid Services, Inc.
376 East 11th Avenue
Eugene, OR 97401

Dear Mr. Hamblen:

Attached is a report on our audit of Lane County Legal Aid Services' compliance with the program integrity requirements of 45 CFR Part 1610. Your comments on the draft report were considered in finalizing the report, are summarized on page 11, and included in the Appendix. Based on your comments and subsequent discussions, we modified recommendation number 7.

Please provide an audit action plan for implementation of the recommendations. The plan should include a description of the action taken to implement the recommendations and the date corrective action was completed, or will be completed. Please submit the corrective plan to the OIG within 30 days of the date of this report.

A copy of this report will be sent to the Chair of the Board of Directors of Lane County Legal Aid Services and to LSC management.

Thank you and the Lane County Legal Aid Services staff for the cooperation extended to the OIG auditors. Please contact me at (202) 336-8869 or Mike Griffith at (202) 336-8903 if you have any questions.

Sincerely,

Leonard J. Koczur
Acting Inspector General

Enclosure

cc: Legal Services Corporation
Randi Youells, Vice President for Programs

**LEGAL SERVICES CORPORATION
OFFICE OF INSPECTOR GENERAL**

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

**Grantee: Lane County Legal Aid Service, Inc.
Recipient No. 938010**

Report No. AU 02-01

October 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 Lane County Legal Aid Service, Inc. (“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 such an organization performs for the grantee. In addition, grantees must maintain objective integrity and independence from organizations that engage in restricted activities.

Between July 1, 1999 and June 30, 2001, the grantee did not comply with the program integrity requirement of Part 1610. Specifically, the grantee:

- did not maintain objective integrity and independence from a legal organization that engaged in prohibited activities;
- allowed a full-time attorney to work on a class action suit for the other organization while in the grantee’s office; and
- certified compliance with Part 1610 without the required supporting report.

Our limited review of cases filed in the state circuit courts in Lane County and adjacent counties indicated that the cases did not involve restricted or prohibited activities. However, we identified a relatively minor case reporting deficiency that is not directly related to program integrity. The grantee did not report seven cases filed in court by its attorneys as required by 45 CFR Part 1644.

OBJECTIVE INTEGRITY AND INDEPENDENCE

The grantee did not establish and maintain objective integrity and independence as required by 45 CFR Section 1610.8. It maintains a close working relationship with the Lane County Law and Advocacy Center (Advocacy Center), a legal organization that handles prohibited cases. The grantee and the Advocacy Center are co-located in the same building with little to distinguish between the organizations. The organizations share both professional and administrative staff and are linked financially through payments for rent and services. In our opinion, the organizations are virtually indistinguishable to clients and individuals not aware of the working arrangements under which the organizations function.

Requirements

Section¹ 1610.8 states that grantees must have objective integrity and independence from organizations that engage in restricted activities. The grantee meets the requirements of this regulation if:

- the other organization is a legally separate entity,
- it does not transfer LSC funds to the organization and LSC funds do not subsidize restricted activities, and
- it is physically and financially separate from the other organization.

The preamble to Section 1610.8 requires the grantee to ensure that it is not identified with restricted activities and that the other organization is not so closely identified with the recipient that there might be confusion or misunderstanding about the recipient's involvement with or endorsement of prohibited activities.

COMPLIANCE WITH REQUIREMENTS

The grantee met the first requirement. The Advocacy Center was incorporated as a separate entity under Oregon law in November 1995. We found no indication that the grantee improperly transferred LSC funds to the Advocacy Center. However, the grantee subsidized the Advocacy Center, to a limited extent, when one of its attorneys worked on a class action suit in the grantee's office space. The third requirement was not met. Based on the totality of the following facts, we concluded that the grantee did not maintain physical and financial separation from the Advocacy Center and, therefore, did not have objective integrity and independence from that organization.

Financial Arrangements

The grantee and the Advocacy Center have intertwined financial arrangements. Over the past two fiscal years the grantee paid the Advocacy Center over \$99,000 in rent and for providing PAI services. In fiscal 2001 the Advocacy Center paid the grantee \$18,000 for administrative services. In October 2000, the Advocacy Center gave the grantee a \$30,000 unsecured loan at a favorable seven percent interest rate. The loan was promptly repaid. In December 1995, the grantee sold its building (purchased with non-LSC funds) to the Advocacy Center and held a second mortgage on the property. The Advocacy Center paid off the second mortgage in fiscal year 1999. The grantee's annual rent payments for part of the building exceeded its mortgage payments when it owned the building.

Co-location

¹ All sections referenced in this report are in title 45 of the Code of Federal Regulations (CFR).

The grantee and the Advocacy Center are located in the same building. The grantee began leasing space from the Advocacy Center after selling it the building. Initially, the grantee leased one office on the first floor, four offices on the second floor, and four offices on the third floor. Staff employed by the Advocacy Center occupied the remaining space on each of the three floors. In March 1998, the grantee began leasing the third floor, one office on the second floor, and approximately 75 percent of the basement, which is used by both organizations for storage of archived files. Mailboxes for the grantee's employees and the Center's employees are co-located on the first floor of the building.

Separate signs are posted in the front of the building for each organization. The grantee's sign is about the same size as the Advocacy Center's sign. Signs placed on doors leading to the stairs state that "Legal Aid" is on the third floor. The sign provides direction to the grantee's office but contains nothing to distinguish the grantee from the Advocacy Center.

Shared Staff

The grantee and the Advocacy Center shared staff in three areas: case intake, the grantee's private attorney involvement (PAI) program, and administration. Sometimes grantee staff worked for the Advocacy Center. Other times the Advocacy Center's staff worked for the grantee. In addition, a grantee attorney considered a full-time employee worked on a class action suit for the Advocacy Center. The following sections discuss the specifics of the staff sharing.

Case Intake

The Advocacy Center's staff performs client intake for the grantee Monday through Friday between 1:00 pm and 3:00 pm. The vast majority of clients "walk in" and few clients are accepted over the phone. The potential clients are provided an information sheet that states the Law Advocacy Center houses two non-profit corporations, the grantee and the Advocacy Center. The name, address and phone numbers of the Advocacy Center are listed on the information sheet, but the grantee's address and phone number are not provided. The grantee is only mentioned in the context of the types of legal assistance it provides.

The Advocacy Center's staff gives potential clients an Application form to document their legal problem and to record eligibility data and other information. The Application is an Advocacy Center form and includes information about the Advocacy Center but does not mention the grantee. The Advocacy Center's staff interviews the potential client and makes any needed clarifications to the data on the Application. The Advocacy Center's Executive Director reviews the Application and decides if the potential client will be referred to the grantee, the Advocacy Center, Pro Bono attorneys under the grantee's Private Attorney Involvement (PAI) program or another legal service provider.

For individuals referred to the grantee, the Advocacy Center's receptionist uses the client's Application to input the required data into the grantee's case management system. The Advocacy Center's staff creates a manual case file that includes the client's Application and its Executive Director places the case file in the mailbox of the grantee's employee who will handle the case. This is tantamount to assigning the case to a grantee employee. The grantee does not compensate the Advocacy Center for case intake services except for the costs associated with clients that are referred to pro bono attorneys under the PAI program.

Clearly the grantee and the Advocacy Center are indistinguishable to a client going through the intake process. In our opinion, the client would conclude that the Advocacy Center was providing legal services even in the cases where the grantee's staff's provides the services.

Private Attorney Involvement Program

The Advocacy Center's staff oversees the grantee's PAI program. Under this program one to four attorneys provide pro bono legal services to grantee clients on Tuesday evenings. Each attorney sees between three and six clients on behalf of the grantee. The grantee provides no oversight of the pro bono attorneys.

The Advocacy Center's Executive Director determines which of the grantee's clients will be referred to a pro bono attorney and its staff schedules appointments for a Tuesday evening. Three Advocacy Center employees, including the Executive Director, coordinate the interaction between the grantee's clients and the pro bono attorneys. Most of the clients are provided counsel and advice by the pro bono attorneys and their cases are completed in one Tuesday evening meeting. On Wednesday the Advocacy Center's Executive Director sends the case files to the grantee's bookkeeper. The bookkeeper reviews the files to ensure that a closure code has been recorded and then closes the cases in the grantee's case management system. For cases not completed on Tuesday evening the pro bono attorneys retain the case files. The grantee's administrative staff follows up with the attorneys to ensure the completed case files are promptly returned.

The grantee paid the Advocacy Center a total of almost \$30,000 for overseeing the PAI program during fiscal years 2000 and 2001. Under a Memorandum Of Understanding dated January 1, 1996, the Advocacy Center provides client intake services, referral services, Tuesday evening appointments, and supervises the private attorneys. The grantee pays for these services based on the amount of time the Advocacy Center's staff charges to the grantee's PAI program. The grantee also pays the Advocacy Center \$400 per month for space used by the pro bono attorneys. The grantee records these payments as PAI expenses and pays them with LSC provided funds.

Administrative Staff

Under a fixed cost contract originally signed in June 1996, the grantee's Administrator and Bookkeeper provide administrative, fiscal planning, and bookkeeping services to the Advocacy Center. The contract requires the Advocacy Center to pay the grantee \$1,500 a month for these services. The grantee's employees maintain timesheets on which they record the amount of time spent providing services to the Advocacy Center. Grantee officials stated that, over the course of a year, \$1,500 a month allows them to recoup their costs. Although it appears that the grantee is not subsidizing the Advocacy Center the organizations are sharing administrative staff.

Class Action Suit

A grantee attorney, who was classified as a full-time employee, occasionally worked on a class action suit for the Advocacy Center and performed some of the work in the grantee's office. The Advocacy Center paid the attorney for his work.

LSC grantees are precluded, with some limited exceptions, by law and regulation from being involved in class action suits. Section 1617.3 and Section 1610.3 prohibit grantees from participating in class action suits. Section 1610.8(a)(2) prohibits grantees from using LSC funds to subsidize class action suits that other legal organizations are pursuing.

A grantee attorney charged the Advocacy Center about 160 hours between July 1, 1999 and June 30, 2001, for work on a class action suit. Over the two-year period this amounted to about seven hours a month, a small but not de minimis amount. The Advocacy Center paid the attorney for his work based on the time he recorded on timesheets. The attorney performed some of the class action suit work in his office in the grantee's rented space. He did not have an office at the Advocacy Center. Because records were not maintained, the OIG was not able to determine the amount of time that the attorney worked on the class action suit or the tasks performed while at his grantee provided office.

Grantee management told us that the attorney was considered a full-time employee, except that he was considered a part-time employee during any months that he also worked for the Advocacy Center. Grantee records listed the attorney as a full-time employee with no indication of part-time status. The only documented indication of the attorney's temporary part-time status was his time sheets and completed certifications required by Section 1635.3(d).

Under Section 1635.3(d), attorneys who work part-time for a grantee and part-time for an organization that engages in restricted activities must certify in writing that they (1) did not engage in restricted activity when paid by the grantee and (2) did not use grantee resources for restricted activities. Certifications are made quarterly. The certification requirement does not apply to de minimis activities. The de minimis standard are those that meet all or most of the following criteria: actions that are of little substance; require little time; are not initiated by the part-time employee; and for the

most part, are unavoidable. LSC's Program Letter 2000-5 provides additional guidance. It states that whether the part-time employee initiates activities is key to determining their acceptability. Receiving a brief unavoidable phone call about a prohibited case would be considered de minimis. Making a telephone call related to a restricted activity would violate the regulation.

The attorney who worked on the class action suit for the Advocacy Center provided the required certifications. The OIG obtained limited assurance that the grantee did not compensate the attorney while he was working on the class action suit. This limited assurance is based on discussions with grantee officials and the fact that the Advocacy Center and the grantee issued separate, pro-rated paychecks to the attorney for certain pay periods. However, despite his certifications, the attorney did use grantee resources including his office and phone while working on the class action suit. Considering the number of hours involved, the OIG concluded that the activities were more than de minimis.

Other Shared Resources

In addition to sharing staff, the grantee and the Advocacy Center share accounting and timekeeping systems, an Internet web page and telephone and fax machine numbers. Each is discussed in the following.

Accounting and Timekeeping Systems

The grantee and the Advocacy Center use the same accounting and timekeeping systems, however their individual records are separately maintained. Under the timekeeping system employees of both organizations may be paid for a maximum of 162.5 hours per month. Overtime is not paid. A grantee employee may work for both organizations during a month, with each organization paying a pro rata share of the employee's salary. The grantee and the Advocacy Center jointly established and implemented this policy. In one case, an attorney occasionally worked for both the grantee and the Advocacy Center over several years. Each month that this occurred, the grantee and the Advocacy Center issued separate paychecks to the attorney for their prorated share of his salary.

Internet Web Page

The grantee's Internet web page states that the legal services "family" in Lane County, includes Lane County Legal Aid Services, Lane County Law and Advocacy Center, and the Senior Law Service. The Senior Law Service is part of the Advocacy Center. The web page states that these organizations work together to provide legal services to low-income persons in Lane County. The web page includes an extensive write-up about a class action suit being handled by the Advocacy Center. A grantee employee who works on the class action suit is identified as an Advocacy Center employee. The web page does not clearly indicate that the grantee and the Advocacy

Center are separate organizations and that the grantee may not engage in restricted activities such as class action suits. The grantee and the Advocacy Center share the cost of the web page.

Telephone and FAX Numbers

The grantee and the Advocacy Center have the same telephone number in the Lane County yellow pages. Each organization, in fact, has its own separate phone number and each pays its share of telephone expenses. Because a single number is listed, individuals contacting the grantee or Advocacy Center through the yellow pages number are likely to conclude that they are dealing with one organization. In addition, the grantee and the Advocacy Center share a fax machine with a single telephone number and share the related costs.

Conclusion

Taking all the above factors into consideration, we concluded that the grantee and the Advocacy Center were so closely aligned that they appeared to be one organization. The grantee and the Advocacy Center shared administrative and professional staff. The Executive Director and other Advocacy Center professionals performed supervisory functions that are the responsibility of grantee management. The two organizations shared communication devices. As a result of this close relationship the grantee was unable to maintain objective integrity and independence. The grantee clearly and unambiguously violated Section 1610.8.

Report On Compliance With Program Integrity Requirements

The grantee's Executive Director did not prepare a written report to the Chairman of the Board of Directors covering the grantee's involvement with the Advocacy Center. Section 1610.8 requires the Chairperson of the grantee's Board to certify annually that the grantee complies with program integrity requirements. In an October 30, 1997 memorandum to all grantees, LSC required that the certification be supported by a written report from the Executive Director to the Chairman. The Executive Director told the OIG that for 1999 and 2000 he provided the Chairman an oral report in lieu of a written one. Based on these reports, the Chairman certified that the program complied with the program integrity requirement of Section 1610.8. If the Executive Director had reviewed his staff's involvement with the Advocacy Center as part of preparing a written report, he may have uncovered and been able to correct the program integrity problems we found.

Case Review

Cases filed in state circuit courts in Lane County and adjacent counties did not involve prohibited or restricted activities. We identified 59 cases filed in state courts

with the grantee's employees as the attorney of record. OIG staff reviewed the pleadings and related materials for all 59 cases and discussed several cases with the grantee's staff. There were no indications that any of the cases involved restricted or prohibited activities. However, some cases were not reported to LSC as required.

45 CFR Part 1644 requires grantees to semiannually report to LSC each case they file in court. The report must include the names of the parties to the case and the cause of action. Grantees are required to adopt written policies and procedures to implement this regulation. For calendar year 2000, the grantee reported that two cases were filed in state courts. One case should not have been reported because it was filled in 1999. The OIG identified seven additional cases that were not reported.²

The grantee has written procedures requiring the attorneys who file the cases to provide the case information to the grantee's Administrator who reports it to LSC. These procedures were not followed for the seven unreported cases. The responsible attorneys did not provide the required information to the Administrator. Grantee management agreed that a breakdown in procedures had occurred. The grantee implemented corrective action during the OIG's site visit.

CONCLUSION

The grantee made an effort to comply with the program integrity requirements of 1610.8 and related regulations. These efforts were not entirely successful and some violations of 1610.8 and the corollary regulations occurred. Most significantly, the grantee did not maintain objective integrity and independence from the Advocacy Center. To correct this problem, the grantee needs to establish a clear demarcation between itself and the Advocacy Center. Some things, such as the building sale and the intertwined financial arrangements, cannot be reasonably changed. The grantee does not need to relocate to a separate building. The needed separation can be established at relatively little cost by modifying procedures, adopting new ones, and clearly distinguishing the grantee from the Advocacy Center. The following recommendations provide for the needed changes.

RECOMMENDATIONS

We recommend that Lane County Legal Aid Service management:

1. Revise application materials provided to potential clients to state that the grantee does not engage in or endorse activities that are prohibited by LSC's Appropriation laws.

² The OIG identified 59 cases with a grantee employee as attorney of record. Fifty-one cases were not subject to Part 1644 reporting because the grantee attorney did not initially file the case.

2. Implement procedures requiring the grantee's Executive Director, or a designee, to approve all referred clients and assign professional staff to assist the client.
3. Implement procedures requiring grantee employees to initially input client information into the case management system and create the client's case file.
4. Implement controls that prevent the Advocacy Center from accessing the grantee's case management system.

5. Assign a grantee employee to (a) coordinate the efforts of pro bono attorneys working in the PAI program and (b) act as the intermediary between clients and attorneys.
6. Provide written notification on LCLAS letterhead to clients that a pro bono attorney will assist her/him at a designated location on a specified date and time.
7. Establish an Internet web page separate from the Advocacy Center or, if a single web page is maintained, provide clear language that distinguishes the grantee from the Advocacy Center.
8. Obtain a fax machine for the exclusive use of grantee staff.
9. Request that the phone company separately list the grantee's telephone number and the Advocacy Center's number in the yellow pages.
10. Rescind the policy jointly established by the grantee and the Advocacy Center that allows employees to be paid for a maximum of 162.5 hours a month and to split their time between the two organizations.
11. Adopt a new policy that establishes the maximum number of hours that grantee employees may be compensated for each month.
12. Formally remind grantee employees that they are precluded from doing Advocacy Center work, except that considered de minimis, in the grantee's office space.
13. Provide the grantee's Board Chairman an annual written report stating whether the grantee complies with the program integrity requirements of 45 CFR Part 1610.

**SUMMARY OF GRANTEE’S COMMENTS ON DRAFT REPORT
AND THE OIG’S RESPONSE**

GRANTEE COMMENT

The grantee stated that the facts and conditions presented in the OIG’s draft report are accurate. LCLAS stated that the OIG used an interpretive approach to the 45 CFR Part 1610.8 program integrity requirements in a few places. Grantee management asserted that the audit utilized an appearance standard whereas an objective standard should have been used.

OIG RESPONSE

The OIG objectively assessed the grantee’s compliance with Section 1610.8. This regulation states that a recipient must have objective integrity and independence from any organization that engages in restricted activities. The recipient must be physically and financially separate from the other organization. The preamble to Section 1610.8 states that the grantee must ensure that it is not identified with restricted activities and that the other organization is not so closely identified with the recipient that there might be confusion or misunderstanding about the recipient’s involvement with or endorsement of prohibited activities. The facts clearly show that the grantee is closely identified with the Advocacy Center. After assessing all available information, we concluded that LCLAS did not maintain physical and financial separation from the Advocacy Center and did not maintain objective integrity and independence from that organization. The grantee did not provide any information to change our conclusion.

GRANTEE COMMENT

The grantee suggested that, if confusion and misunderstanding are used as a standard, any conclusions reached about the program integrity of a recipient should be based on a totality of objective facts. LCLAS management stated that to satisfy the totality requirement, positive factors demonstrating compliance with Section 1610.8 should be considered. Grantee management indicated that a weighing of factors, those that conform vs. those that do not, should determine if a recipient is physically and financially separate from another organization.

OIG RESPONSE

The OIG considered positive as well as negative factors in reaching our conclusions. The conforming factors are not sufficient to offset the non-conforming factors. Section 1610.8(a)(3), states that “Whether sufficient physical and financial separation exists will be determined on a case-by-case basis and will be based on the totality of the facts.” Based on the totality of the conditions under which the grantee and the Advocacy Center function, we concluded that LCLAS did not maintain physical and financial separation from the Advocacy Center.

GRANTEE COMMENT

The grantee stated that most of the recommendations are well within its capacity to complete and that they are being implemented. LCLAS requested that the OIG modify recommendations 5 and 7. The grantee stated that recommendation 5 did not address a pivotal question in the separation issue and it would be disruptive to assign grantee personnel to the PAI function. The grantee suggested that descriptive language on the website could provide sufficient separation between the grantee and the Advocacy Center.

OIG RESPONSE

Subsequent to receiving the comments, the OIG discussed the draft report with the grantee's Executive Director. The discussion primarily covered the requested changes to the recommendations.

The discussion did not result in a change to the OIG's fifth recommendation. The Advocacy Center's staff oversees the grantee's pro bono program. Under this program one to four attorneys provide pro bono legal services to grantee clients on Tuesday evenings. The Advocacy Center's Executive Director determines which of the grantee's clients will be referred to a pro bono attorney. Advocacy Center employees coordinate the interaction between the grantee's clients and the pro bono attorneys. The grantee provides no oversight of the pro bono attorneys. The OIG recommendation will correct this condition and we reaffirm it.

We modified the seventh recommendation. This recommendation required the grantee to "Establish an Internet web page separate from the Advocacy Center." We continue to believe that, in the Internet context, separate web pages are the best way to establish a clear distinction between the grantee and the Advocacy Center. The expense of implementing the recommendation is minimal. If separate web pages were established, they could be electronically linked so that a potential client could easily access both organizations.

We understand the grantee's wish to have a single web page for both organizations. Therefore, we modified the recommendation to give the grantee the option of establishing a separate web page or providing clear language that distinguishes the grantee from the Advocacy Center. If the grantee decides that a single web page is appropriate, the web page must, at a minimum, clearly state that the grantee does not engage in restricted activities. It should also state that the grantee does not endorse or financially support the Advocacy Center's activities that LSC grantees are precluded from doing. Additional language distinguishing between the grantee and the Advocacy Center may also be needed.

The full text of LCLAS's comments is in Appendix I.

AUDIT ACTION PLAN

Please provide an audit action plan for implementation of the recommendations. The plan should include a description of the action taken to implement the recommendations and the date corrective action was completed, or will be completed. Please submit the corrective plan to the OIG within 30 days of this report.

BACKGROUND

The grantee is a nonprofit corporation established to provide legal services to indigent individuals who meet eligibility guidelines. Its priority is family law including domestic violence issues. About 77 percent of all cases closed by the grantee in 2000 related to family law. The grantee is located in Eugene, OR. It is staffed with nine attorneys and six other employees who assist case handlers and provide administrative support services. The grantee received total funding of over \$852,000 during their most recent fiscal year, which ended June 30, 2001. LSC provided over \$293,000 or about 34 percent of the total funds received by the grantee 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 the grantee 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 June 30, 2001. The OIG began this audit work in June 2001 and visited the grantee in Eugene, OR, July 16 through July 25, 2001. At LSC headquarters in Washington, DC, we reviewed materials pertaining to the grantee including its Certifications of Program Integrity, audited financial statements, grant proposals, and recipient profile. OIG staff discussed issues relating to the grantee with LSC management officials.

During the on-site visit, the OIG interviewed and collected information from the Executive Director, attorneys, Administrator and other staff. Another legal services provider, Lane County Law and Advocacy Center, was located in the same building as the grantee. The OIG interviewed officials with the Advocacy Center, including the Executive Director. We ascertained whether the grantee employees were generally knowledgeable regarding the guidelines set forth in Part 1610. The audit included an assessment of the grantee 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 the grantee. The OIG identified the grantee's controls applicable to monitoring both pro bono and contract attorneys under its PAI program.

The OIG searched courthouse records to identify cases for which an employee of the grantee was listed as the attorney of record. The search was confined to cases filed in 2000 in the state circuit courts in Lane County and surrounding counties. We identified and reviewed 59 cases to determine if they involved a restrictive or prohibited activity.

The OIG reviewed the grantee's financial accounts for vendors including contractors, employees, and consultants. From the 307 vendors identified in the grantee's Master Vendor List, we judgmentally selected 35 vendors and examined 100 percent of the activity. We reviewed 177 transactions totaling over \$178,000.

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

All agreements between the grantee, and other organizations and individuals, were requested. The OIG reviewed all materials provided including grant funding instruments, leases, and contracts.

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.

LANE COUNTY LEGAL AID SERVICE, INC.

APPENDIX I

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September 25, 2001

Leonard J. Koczur
Acting Inspector General
Legal Services Corporation
750 First Street N.E., 11th. Floor
Washington, D.C. 20002-4250

Dear Mr. Koczur:

General Comment. This letter is in response to your draft report of September 12, 2001. The visit from July 16 through July 25, 2001, by your team, headed by Michael Griffith, was conducted in a professional, thorough and courteous manner.

The facts and conditions presented are accurate. We have some language concerns that are noted below. We also question your interpretive approach to Part 1610.8 in a few places. We think you have used an appearance standard where it should be an objective standard; 1610.8(a) requires objective integrity. Also, we think that there should be a weighing of factors; 1610.8(a)(3) requires considering a totality of facts. How the Part is interpreted is important, not just to our program, but likely to other recipients as well.

Recommendations.

Most of the recommendations, noted on Page 9, are well within our capacity to complete and we are moving on them. Because of interpretive questions, and potential operational difficulties, we are waiting on others. By this letter we are inviting, and requesting, the administration of the Legal Services Corporation enter into a discussion with us. We think we can fulfill the requirements of Part 1610.8 with modifications in recommendations #5 and #7 in particular. As to #5, we would like additional explanation regarding the necessity for this recommendation. It does not seem to be a pivotal condition in the overall separation question. Fulfillment of this recommendation would be disruptive to our operation by re-assignment of personnel. As to #7, why not require appropriate descriptive language onto the home page of the website that distinguishes the corporations?

Interpretation of 1610.8.

Objective Integrity standard.

The standard of Objective Integrity and Independence(1610.8) is paramount and controlling for this Section. Please note the bottom of Page 1 in your introduction to the report. The paragraph labeled “Objective Integrity and Independence” has in it’s last sentence “...the organizations are virtually indistinguishable to clients and individuals (underline ours) not aware of the working arrangements...”. We do not find anyplace in this Section, or the Preamble to the Part, requiring, or suggesting, such a standard. To assume a client will be confused is not a usable standard. This is not a statement of objective reality. Also, this standard would not satisfy the ‘totality of facts’ requirement since most all ‘clients and individuals’ are unaware of the details of our organization. We also do not have the experience of clients asking us about the relationship.

Also, please note Page 4, third full paragraph - which concludes the section on Case Intake. The same standard is used here suggesting client confusion about the relationship. You continue further to suggest that the client would “...conclude that the Advocacy Center was providing legal services even in cases where the grantee’s staff provides the services”. In practice, once the client is accepted, they are assigned to a Legal Aid casehandler, the same day, and there is no confusion. It may be constructive to notify applicants that the Advocacy Center is providing intake services. As a matter of appropriate public/client education, we could proffer a one page description of the two organizations. However, we do not see how applicant/client impressions determine the objective separateness of the organizations. We think using a such a standard would set a bad precedent.

We suggest that if “confusion” and “misunderstanding” are used as a standard, that it be a conclusion from a totality of objective facts. This approach is inferred in the next to last paragraph in the Preamble under Section 1610.8. This paragraph discusses whether “...there might be a confusion or misunderstanding about the recipient’s involvement with or endorsement of prohibited activities”. The question then becomes: are clients aware of what a prohibited activity is? Do they have all the facts? We believe adhering to the objective standard will promote the de facto separation contemplated by Part 1610.

Totality of the Facts.

It is certainly understood that the entire report is designed to satisfy the “totality of facts” requirement of 1610.8(a)(3). We have two observations. First, the report primarily describes only factors causing concern. There is no listing of factors that suggest appropriate separation. Second, because of this lack, there is no weighing of the factors - those that conform vs. those that do not. Part 1610 does not require weighing per se. We think to satisfy the “totality” requirement, you must also list positive, conforming factors. Once that is done, then a weighing is required as a natural consequence.

For our purposes, it would be helpful to highlight conforming factors. We place a high value on the following: 1) separate corporations and boards of directors, 2) separate staff placed separately in the building, 3) separate bookkeeping/timekeeping, 4) prominent signage outside and inside, 5) contracts between the organizations that create an ‘arms length’ financial/operational relationship, 6) separate phone numbers and stationery, and, 7) a web page that lists the organizations separately. All of these are mentioned in varying degrees in the report. If you could point out why these are not persuasive against your findings, it would assist our understanding of the requirements of Part 1610.

Language in the Report.

There are places in the report where the use of language is possibly misleading. Even though some of these appear ‘de minimus’, we think the implication, or slant, to the language should be modified.

1. Page 3, second paragraph, last sentence under heading “Co-location”.

This sentence notes that our sign provides direction to Legal Aid on the third floor but does not distinguish the grantee from the Advocacy Center. What does this mean? Should there also be a sign that says this is not the Advocacy Center?

2. Page 3, second heading "Shared Staff".

We consider the term 'shared staff' too vague with an implication that staff members are not distinguished as working for one organization or the other. All staff work as employees for one of the organizations. Work done for the other organization is monitored and recorded for the contracts - which are designed to keep the organizations at an arms length business relationship. It would be better to designate these people as contractors. The term 'shared staff' appears also on Page 5 under the heading Administrative Staff.

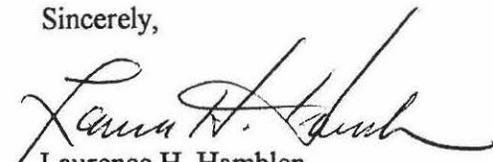
3. Page 7, first sentence under heading "Telephone and FAX Numbers".

It would be good to add a note, after the first sentence, that the same number appeared in the Yellow Pages because of a mistake by Qwest. Also, note that information in the White Pages (and when "Information" is dialed) is correct in distinguishing the organizations and their separate numbers.

Conclusion.

It is our intention to bring Legal Aid into conformance with Part1610 as required by this Report. Again, we ask for a dialogue on two of the recommendations which we feel can be adjusted and still be in full compliance with the Regulation.

Sincerely,



Laurence H. Hamblen
Executive Director

OIG STAFF RESPONSIBLE FOR THE AUDIT AND THE REPORT

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