LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS

SEMIANNUAL REPORT TO THE CONGRESS

FOR THE PERIOD

APRIL 1, 2003 – SEPTEMBER 30, 2003

NOVEMBER 30, 2003

LEGAL SERVICES CORPORATION

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FOREWORD

I am pleased to transmit the Semiannual Report of the Legal Services Corporation ("LSC" or "Corporation") Board of Directors ("Board"), providing comments on the Semiannual Report of LSC's Office of Inspector General ("OIG") for the six-month period of April 1, 2003, through September 30, 2003, and providing further explanation of LSC's activities during the reporting period.

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

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Frank B. Strickland, Chairman
Legal Services Corporation
November 25, 2003

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MESSAGE OF THE BOARD OF DIRECTORS

During the reporting period, on July 24, 2003, the ninth new Board member appointed by President Bush was sworn into office. This new Board member, David Hall, is a Professor of Law at Northeastern University in Boston, Massachusetts. Mr. Hall replaces John Broderick on the Board. Maria Luisa Mercado and Ernestine Watlington, appointed by President Clinton in 1993, continue to serve on the Board.

The Board is pleased to have the opportunity to address the Congress and share its perspective on the current state of federally-funded legal services for low-income Americans. LSC is in the fourth year of implementation of its Strategic Directions 2000-2005, the principal goals of which are to increase access to justice and improve the quality of civil legal assistance on behalf of the needy and less fortunate. While LSC and its grantees continue their undertaking to maximize the cost-effective use of limited federal resources and to leverage those resources to raise funds from state and local governments, foundations and private sources, the significant unmet need for civil legal assistance in the Untied States reminds us starkly that we are far from achieving our national commitment of "equal justice for all."

LSC made continued progress in its State Justice Community Work during the reporting period. Although LSC did not approve structural changes in any states during the period, it continued to work actively with four (4) states that are in the process of reconfiguration planning.[1] The consolidation of service areas and programs[2] undertaken in LSC's State Justice Community Work has been designed to maximize economies of scale, evenly distribute access to services, and broaden the delivery of services available to low-income clients. During the reporting period, LSC provided technical assistance to four (4) states to assist them in planning and implementing the structural and service delivery changes necessary to achieve State Justice Community Work objectives. Finally, LSC staff traveled to three (3) states to conduct evaluative and planning meetings with grantees and state equal justice planning bodies.

During the reporting period, LSC continued work on other initiatives to support its grantees and to improve the quality and accessibility of services, including the continued use of technology to promote and facilitate access to legal services. It has provided a range of technological assistance to programs during the reporting period, and it has focused substantial attention on projects designed to increase access to legal services through assistance to *pro se* litigants. Such projects include grants that provide for the installation in some courthouses of touch-screen, self-help computer terminals where *pro se* litigants can use software to generate their own pleadings in several types of cases.

[1] Those states are Alabama; Massachusetts; Minnesota; and Missouri.
[2] 'Programs', 'recipients', and 'grantees' are used interchangeably in this report to refer to recipients of LSC funding.

Some of LSC's additional efforts during the reporting period include work with newly reconfigured service areas to ensure the development of comprehensive delivery systems throughout enlarged geographic areas; continued program visits to discover innovative procedures that may serve as models for other programs; attempts to address the special problems of indigent persons in rural communities; attempts to address the large student debt loads that frequently dissuade new lawyers from pursuing careers in legal services programs; efforts to promote centralized intake, advice and referral systems which enable programs to serve greater numbers of clients; continued work to promote diversity among legal services providers; and attempts to measure non-case work provided by grantees. LSC also continues to monitor its grantees for compliance with federal law and LSC regulations, working closely with the Office of Inspector General.

BACKGROUND

The Legal Services Corporation

The Legal Services Corporation is a private, non-profit corporation established in the District of Columbia by the Legal Services Corporation Act of 1974, as amended (the "LSC Act"),[3] to provide financial support for legal assistance in civil proceedings to persons unable to afford legal services. LSC is governed by an eleven-member bi-partisan Board of Directors appointed by the President of the United States with the advice and consent of the Senate. The Board appoints LSC's President, who serves as the Corporation's chief executive officer, subject to general policies established by the Board.

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

Funding and Grant-Making Activities

LSC provides funding to legal services programs serving indigent persons throughout the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam and Micronesia. To carry out the purposes of the LSC Act, LSC received an appropriation of $336,646,000 for Fiscal Year ("FY") 2003. (This figure represents the total appropriation after a .65 percent across-the-board rescission.) The full House and the Senate Appropriations Committee have each passed an FY 2004 Budget for LSC of $338,848,000. The House and Senate versions differ in that the House funds the Basic Field line item at $319.5 million, while the Senate funds it at $312.3 million. The Senate version includes a $6.7 million Census Adjustment line item, which the House does not fund. The differences should be resolved in the final budget made part of an Omnibus Appropriations bill, which is expected to be voted on prior to Thanksgiving.

[3] 42 U.S.C. §§ 2996-2996l.

MANAGEMENT INITIATIVES

During this reporting period, LSC continued its efforts to improve the efficiency of its competitive grant award system and the effectiveness of the delivery of legal assistance through its state justice community work. The Corporation continued to demonstrate its ability to ensure both compliance with program rules and regulations, and the maintenance of high quality legal assistance to eligible clients.

Competition

The LSC competitive grants process remains responsive to the Congressional requirement to award grants through a system of competition, and to assure the most efficient and effective delivery of services to eligible low-income people. It also continues to evolve into a more useful tool for capacity building within state justice communities, for identifying areas of further improvement, and for networking legal services programs. This year, LSC modified its Request For Proposals ("RFP") to emphasize its commitment to assuring program board and staff diversity and sensitivity to low-income people with special access challenges, including those with limited English proficiency and limited literacy.

Two of LSC's foremost objectives in the competitive grants process are 1) to collect information necessary to determine the capacities of individual legal services programs; and 2) to remain informed about the quality of legal services delivery throughout the country. LSC received a total of fifty-four (54) qualified grant applications for eighty (80) service areas in twenty-two (22) states, the District of Columbia and American Samoa.[4]

LSC staff evaluates grant applications based on the American Bar Association Standards for the Provision of Civil Legal Services to the Poor and LSC's Performance Criteria. In addition to a thorough and objective evaluation of the grant applications, LSC provides each successful grant applicant with a "feedback letter." This is a written assessment that addresses the potential strengths and weaknesses of the proposed delivery strategy based on the grant application. The objectives of the feedback letter are to improve program performance and to improve the quality of future grant applications.

The competitive grants process is fully automated. This digital system permits analysis of a continuous stream of current information on legal needs, response strategies, and administrative and management systems. This allows LSC to develop greater intelligence about the many strengths and potential weaknesses in the delivery system.

[4]LSC proposes to fund a new service area in 2004 in American Samoa. This will mark the first time in LSC history that there will be an LSC-funded program in American Samoa to provide civil legal services to eligible, low-income residents. U'unai Legal Services is the proposed recipient of funding for this service area, and total funding for the program will be $305,089. Based on 2000 census data, there are approximately 35,574 eligible, low-income people living in American Samoa.

Model program initiatives, advances in technology, programs' diversity and training strategies, and new client-centered delivery strategies are being identified through the competition process so that they can be shared and replicated by legal services programs throughout the country.

Utilizing current technological opportunities, LSC has improved the efficiency of the competition process in the following ways:

- It has established a comprehensive digital library for competition, which provides immediate electronic access to reports, analyses, decisions, and facts about the LSC competition process. The Library provides internet access to competition data, which is available at all times.

- It has commenced the transmission of grant award documents electronically. The benefits of this initiative include an electronic archive of competitive grant contracts, a reduction in administrative costs, and a greater convenience for LSC grantees.

- It has committed LSC grantees to having the capacity to electronically transmit, receive, and maintain all competitive grant documents. Requiring this capacity encourages grantees to maintain permanent, digital, tamper-proof files beyond those normally associated with competitive grant files, which reduces grantee administrative costs associated with postage, handling, printing, and distributing paper documents.

An overview of the competitive grants process, the RFP, application instructions, resource materials, and key competition dates are available at www.ain.lsc.gov.

Program Visits

During the reporting period, LSC continued visiting programs to assess quality, provide technical assistance, measure progress in achieving a comprehensive delivery system in recently reconfigured service areas, address problems, evaluate innovative procedures which may serve as models for other programs, and communicate LSC's expectations directly to grantees. These visits reaffirmed LSC's belief that such visits expand its understanding of programs' activities otherwise gleaned from competition applications, grant activity reports, and anecdotal information.

Program visits by LSC's Office of Program Performance ("OPP") staff involve a comprehensive review of program operations to evaluate the efficiency and effectiveness of programs. The functions assessed on such visits include the establishment of priorities; intake systems; management of legal work; governance; private attorney involvement; resource development; and strategic planning. Following an OPP visit, it is customary for LSC staff to send a report or letter to the program with findings and recommendations. These letters are maintained at LSC and are available upon request.

LSC routinely follows up on program visits. Typically, LSC staff members will call programs to check on progress with planned changes. Additionally, after program visits, LSC often provides programs with innovative practice materials to assist in improving the effectiveness of their delivery systems. In this reporting period, LSC returned to two programs it had originally visited in 2002 and early 2003, to gauge the programs' progress.

From April 1, 2003 through September 30, 2003, the Vice-President for Programs and OPP staff and consultants visited the following fifteen (15) programs: California Rural Legal Aid; DNA-Peoples Legal Services (serving Native Americans in Arizona, New Mexico and Utah); Indiana Legal Services; Legal Aid and Referral Center (New Hampshire); Legal Aid of NorthWest Texas; Legal Aid Society of Cleveland; Legal Services Law Line of Vermont; Legal Services of Eastern Virginia; Legal Services of Northern Michigan; MidPenn Legal Services; Montana Legal Services; New Mexico Legal Aid; Pine Tree Legal Assistance (Maine); Statewide Legal Services of Connecticut; and The South Carolina Centers for Equal Justice. These visits are in addition to State Justice Community Work and Technology visits reported elsewhere in this report.

State Justice Community Work

LSC continues to promote efforts by its grantees to develop comprehensive, integrated delivery systems that reach a greater number of persons, with a broader range of services. The State Justice initiative requires grantees to work with other providers and stakeholders within each state, such as the courts, bar associations and client groups, to assure that a full range of high quality legal services are available to clients regardless of their geographical location within a given state.

During the reporting period, LSC approved no structural changes in legal services programs, but continued to work actively with four (4) states that are in the midst of reconfiguration planning: Alabama; Massachusetts; Minnesota; and Missouri. Ohio is processing configuration issues and working on a new state plan, but LSC has not been actively engaged in this process, other than to support the efforts. The consolidation of service areas and programs enables recipients to take advantage of economies of scale, to more evenly distribute access to services and to broaden the availability of legal services to low-income individuals and families. Since 1998, the number of LSC grantees has been reduced from 262 to 160 through the State Planning process.

LSC has continued to make technical assistance available to help states plan and implement the structural and service delivery changes necessary to reach State Justice Community objectives. During the reporting period, the following four (4) states received technical assistance: Alabama, Massachusetts, Minnesota, and Washington. Alabama and Massachusetts received grants supporting reconfiguration planning. Minnesota received a grant for creation and support of its statewide planning commission. Washington was given funds to support joint statewide technology planning between its legal services program and the court system.

During this period, LSC staff traveled to the following three (3) states to conduct evaluative and planning meetings with grantees and state equal justice planning bodies: Massachusetts, Minnesota and Tennessee. These visits varied in length from several days to a week. LSC staff also attended the regional meeting of the Southeastern grantees in Florida to discuss the State Planning process and answer grantees' questions about the process. Such visits inform LSC of the progress being made, as well as the challenges that states must overcome. The visits also provide grantees and their partners with practical information about achievements in other jurisdictions, innovative ideas, and LSC's expectations with regard to State Planning.

In 2002, LSC initiated the development of an evaluation instrument designed to assess the success of its grantees' State Planning efforts. The instrument sets forth the criteria and measures that LSC will use to evaluate the effectiveness of the civil legal services delivery system within each state. Evaluations will also establish benchmarks against which further progress can be measured and allow LSC to begin to gather data to compare state delivery systems. Finally, the evaluations will help guide grantees as they continue to implement initiatives or develop new initiatives to ensure the highest quality and maximum level of services for eligible clients.

In May of 2003, LSC conducted the last of three tests of the evaluation instrument in Ohio, after similar tests in Washington and Kentucky. The tests indicated that the instrument was a valid evaluation tool. The instrument was used in late October to evaluate Virginia's planning efforts. A joint state planning/program quality evaluation is planned for Utah in December 2003.

Finally, a state planning grant assurance that reiterates the necessity for ongoing planning was developed during the reporting period and will attach to all 2004 funding. The grant assurance asks each grantee to foster comprehensive and integrated statewide civil legal services delivery systems, in concert with other stakeholders in their respective states, for the benefit of clients.

These efforts, when taken together, have resulted in significant, positive changes for low-income clients throughout the country, including: the development of additional resources for civil legal services; new and more efficient ways of providing legal information and advice to low-income persons; alternative ways to serve the rural poor; and more effective and economical structures to assure equal justice to a greater number of Americans. LSC's state justice initiative is moving towards a greater emphasis on grantees' roles in building and maintaining inclusive and collaborative state justice communities, and away from an emphasis on reconfiguration as a tool for positive change.

Technology Efforts

LSC's technology efforts consist primarily of the administration of the Technology Initiative Grants program ("TIG"), and the awarding of grants under this

program. The TIG program uses technology to help grantees provide assistance to low income persons who would otherwise not receive legal assistance. This is accomplished by means of technologically enhanced *pro se* and community legal education efforts, and also by enhancing state justice systems' technology infrastructures to allow centralized telephone intake and delivery systems. This use of technology also allows greater coordination among grantees.

During the reporting period, LSC awarded fifty-one (51) new TIG grants. These grants will enable the implementation of innovative new projects, such as a partnership between LSC's Colorado grantee and Colorado courts to develop free electronic-filing of pleadings and court documents for low-income litigants. This grant will also be used to enhance *pro se* representation, by providing for the installation in select county courthouses of touch-screen, self-help computer terminals, where users will interact with cutting-edge software to file their own claims in cases related to domestic violence, wrongful evictions, and small claims.

The latest cycle of TIG awards brings to 49 (out of a possible 56) the number of states and territories that have received funding from LSC for the development of statewide websites. LSC funding for these projects has resulted in a remarkable increase in the online availability of legal education and *pro se* materials for low income persons. A significant development for the statewide websites during the reporting period was the completion of the "advocate template," one of three major components of statewide websites. The advocate template is a portal for grantee attorneys and paralegals, which enables them to maintain brief banks for particular practice areas; post training calendars; establish task forces on line; and maintain listservs, among other activities.

LSC recently developed its first set of evaluation instruments for TIG grants. These instruments will analyze work completed in the first phase of funding for the statewide web sites. LSC continues to work on evaluation protocols for other projects.

In addition to the work described above, during the reporting period LSC staff devoted substantial time to technological training, program visits, and the refinement of LSC's internal administration and grant monitoring infrastructure. LSC staff participated as trainers in several technological training events during the period. LSC staff also made program visits both in connection with monitoring TIG grants, as discussed below, and as participants in quality assurance visits discussed above in the "Program Visits" section of this report.

Training Events

At the Equal Justice Conference in Portland, Oregon in April 2003, LSC staff co-presented the TIG Affinity Session, co-hosted the Cybercafe, presented one session entitled "Evaluating Technology Projects," and another session on Legal Service XML. During the reporting period, LSC technology staff made presentations at the following conferences:

- MidWest Project Directors meeting in Minneapolis, Minnesota;
- CORT Technology Training held in Columbus, Ohio and attended by legal services staff from Ohio, Michigan, and West Virginia; and
- ABA Techshow in Chicago.

Each year LSC hosts a TIG conference to train and educate new grant recipients. Planning for the January 2004 training, to be held in Austin, Texas, is well underway.

Press Events

During the reporting period, LSC held press conferences announcing the following 2003 TIG awards:

- Two awards to Ohio State Legal Services, one to establish a multi-state document assembly production server, and a second to create a series of assisted *pro se* document assembly products.

- Two awards to Legal Aid of East Tennessee. The first grant will pilot a web-based method for research requests from legal aid program staff, to be answered by law students at the University of Tennessee College of Law. The second grant will be used to host an open source circuit rider to provide assistance to all states currently adopting the Kaivo statewide website template.

- Three awards to California programs, announced at the ABA Annual Conference in San Francisco in August 2003. One award, given to Bay Area Legal Aid, will enable the program to implement a hotline intake system to improve access for clients. Another award to California Rural Legal Aid will help that program transition from 22 separate case management databases to a single database, thereby enabling the program to assist any client from any program office and complete system wide conflict checks. A third award to California Indian Legal Services will help that program continue its efforts to develop the California statewide web site.

Program Visits

During the reporting period, LSC visited the following programs in connection with specific TIG projects: DNA-Peoples Legal Services in Arizona (to review progress on the program's kiosk system); New Mexico Legal Aid (to monitor the program's technological integration of offices after the merger of several programs); and the South Carolina Centers for Equal Justice (to assist the program in its provision of assistance through video conferencing technology).

Refinement of the TIG Grants Management Structure

To ensure that the TIG grant management and application processes run efficiently and cost effectively, LSC has automated these systems. As a result,

applications for 2003 TIG grants were submitted electronically. This automated system allowed applicants to enter most information into an online database. The automated application process also eliminated the need for LSC staff to perform data entry from paper applications, giving them more time to work on other projects. A new grant management package for the TIG program has been purchased and is being installed in November.

The TIG program is administered in a way that makes incremental payments based on grant progress, rather than making lump sum awards to recipients at the outset of the grant cycle. Specific tasks are assigned to each payment, and the complete set of tasks or 'milestones' must be completed before additional funding is made available. Automation of the milestone reporting system continued in this reporting period, and LSC continues to refine and improve this system. At the end of 2002, LSC designed and developed an online application that allows grantees to submit progress reports on their grants through a website. Grants prior to 2002 have been added to the system, and this information will be available to all TIG recipients before the end of the year.

TIG grants are building a structure that permits income-eligible clients to get advice and brief services through centralized intake systems, and legal education materials on web sites. These grants also enable LSC-funded programs to make use of the productivity benefits that come from technologically sophisticated infrastructures. By carefully monitoring the TIG grants and overseeing project evaluations, LSC is assessing the extent to which technological approaches can increase the amount and quality of services to clients.

Work with Newly Reconfigured Programs

LSC continues to work with programs serving newly-configured service areas. Newly reconfigured programs face different types of problems depending on whether the current grantee is the product of a merger or is taking over a new service area. Merged programs must meld the systems and cultures of two or more prior organizations, including the adjustment of job duties and salaries, and the establishment of priorities. A program taking over a new service area must ensure sufficient staffing for the new area, secure office space, and assume responsibility for unfinished cases of the prior grantee. Extensive outreach is also usually necessary to integrate the program into the new service area.

LSC is taking steps to ensure that grantees are making significant progress in achieving comprehensive delivery systems throughout service areas. As part of this effort, LSC attached special grant conditions to FY 2004 grants. These grant conditions require the submission of periodic written reports on specific aspects of comprehensive delivery systems. LSC has closely analyzed these reports and provided written and oral feedback to each grantee. During this reporting period, LSC monitored the progress of newly reconfigured programs in Iowa; Michigan; New Jersey; North Dakota; Oklahoma; South Carolina; Texas; West Virginia; and Wisconsin.

Rural Initiatives

The delivery of legal services in rural areas presents particular challenges rooted in the isolation of rural low income populations, the distance that clients must often travel to get assistance, and the presence of issues unique to bucolic areas. A written report on rural delivery issues, and a summary of the November 2002 Rural Issues and Delivery Symposium sponsored by LSC, were presented to the LSC Board of Directors on April 25, 2003.

During the reporting period, LSC staff attended a Rural Multi-Sector Leadership Convention in Baltimore, Maryland. This event was sponsored by the National Rural and Policy Research Institute and funded by the W.W. Kellogg Foundation. At the end of this period, preparation was underway for a conference on rural legal services to be co-sponsored by LSC, and held at the National Legal Aid and Defender Association Annual Conference in Seattle, Washington in November 2003.

Training

In its report for the previous reporting period (i.e. October 1, 2002 through March 31, 2003), LSC described two Technology Initiative Grant ("TIG") awards that promote training among members of the legal services community. The first grant, to the Legal Services Law Line of Vermont, Inc., will use technology to make the core curriculum of the Legal Services Training Consortium of New England available nationally. This grant will also be used to provide a platform for other legal services organizations to provide distance learning opportunities. The second grant, to the Legal Aid Society of Orange County (California), creates a national technology training and curriculum project to build capacity across many audiences within the legal services community, as a means to improve the implementation of model technology innovations that improve justice for low-income clients. LSC continues to monitor the progress on these two grants.

During this reporting period, LSC contracted with the National Center on Poverty Law ("NCPL") for use of its secured website and poverty law library by all attorneys who have worked for LSC-funded programs for three years or less. LSC also contracted with NCPL to provide a comprehensive subscription (i.e. six issues) to *Clearinghouse Review* for these new legal services attorneys. Nearly 800 young attorneys are receiving the benefits of this contract, which will assist them in providing quality legal representation on poverty law issues.

Loan Repayment Assistance Program

Many new attorneys are dissuaded from joining legal services programs because of the heavy debt they incur to attend law school. The American Bar Association estimates that many new attorneys have an average student debt load that exceeds $80,000. LSC worked with the American Bar Association's Commission on Loan Repayment and Forgiveness to examine and report on the effect of the increasing educational debt of new lawyers on the legal profession, and specifically, the effect of

such debt on new lawyers interested in pursuing careers in public interest law. In August, the Commission released its report that included proposals to mitigate the debt burden.

Promotion of Centralized Intake Systems

Since 1996, LSC has vigorously advocated the use of telephone intake, advice and referral systems. These systems are a gateway for clients' receipt of program services. A highly efficient system that makes the best use of modern technology allows a program to provide services to a greater number of clients, while freeing up staff time for more substantive service. In this reporting period, LSC staff provided technical assistance to programs in California, Louisiana, Nevada, New Mexico, North Carolina, North Dakota, Ohio, and Wisconsin in support of the implementation of centralized telephone intake, advice, and referral systems or improvements to their systems.

Implementation of 2000 Census and the Harkin-Smith Amendment

LSC's appropriation act requires that it distribute funds for each geographic area on a per capita basis relative to the number of individuals in poverty determined by the Bureau of the Census to be within a given geographic area. The Bureau of Census released the 2000 Census poverty population data in the summer of 2002.

Full implementation of the new Census numbers would have caused approximately half of LSC grantees to lose funding, while the other half would have gained. Under the Harkin-Smith Amendment, LSC received an additional $9.5 million for FY 2003, to mitigate the Census-related losses to grantees. These funds were projected to cut the losses approximately in half. However, as a result of a 0.65% across-the-board rescission included in the final FY 2003 appropriation, the actual funding restored was somewhat less than fifty percent.

Currently, the House language for LSC's FY 2004 appropriation resumes the allocation of Basic Field-General funding based solely on the Census poverty population. The Senate version includes nearly the same funding, but continues to allocate a sum (i.e. $6.7 million) to mitigate the funding reductions for programs that lost poverty populations in the last decade. As of the end of the reporting period, and as of the date of this report, the two versions of the funding language were still being reconciled.

Evaluation

LSC believes that in order to assure the highest quality of services, there must be rigorous evaluation of LSC's procedures and strategies, as well as those of its grantees. As described above, LSC's evaluation of applications, grantees, technology projects, and progress in building state justice communities is on-going.

The most complex type of evaluation is that which attempts to measure outcomes. LSC is pursuing outcome measurement in the state justice evaluation process, and in many of the technology grants. While these are important outcome measurement efforts,

they do not measure outcomes for clients receiving extended representation. In June of 2003, LSC partnered with the Hale and Dorr Legal Services Center, and the Bellows-Sacks Access to Civil Legal Services Project of Harvard Law School, to sponsor the *Summit on Performance Measures: Assessing Quality and Measuring Results*. The summit focused on the measurement of outcomes for clients receiving extended representation. LSC staff members are currently devising a strategy to further the measurement of outcomes in situations where clients are receiving full representation.

Matters

In the latter half of 2001, LSC implemented the Matters Service Reports ("MSR") to enable grantees to report services they perform that do not rise to the level of cases, and thereby collect more accurate data on the range of services provided by grantees. The online system for reporting Matters was modified to reflect changes made during 2002, and in January of 2003, an updated list of frequently asked questions was posted on this system to help grantees prepare and report matters.

The online reporting system has functioned smoothly, and in March of 2003, just before the reporting period began, LSC received MSRs from grantees containing 2002 data with no major problems. During the reporting period, LSC's internal committee on Matters reviewed the 2002 data and isolated a few instances in which data submissions were miscalculated. Members of the committee have discussed these problems with the grantees affected, and the problems have been resolved. To correct the problematic areas identified in connection with the 2002 submissions, the MSR electronic forms and instructions to be used in March 2004 (for reporting 2003 data) will include several minor changes.

Diversity, Inclusion and Multi-Cultural Competency

During the reporting period, LSC intensified its support of grantees and state justice communities that seek to expand diversity in their organizations and improve access for clients from underserved communities. A cornerstone of this effort is the provision of trained facilitators to guide conversations on inclusion, and to help legal services leaders craft strategies that will enhance the productivity of diversity activities. During the reporting period, LSC provided this form of assistance to five (5) grantee boards and two (2) state justice communities facing diversity challenges. Additional grantees and state justice communities are in the process of receiving this kind of assistance. Skilled facilitators employed by LSC for this purpose use the LSC diversity manual with leadership groups, and they are now being deployed to guide grantees who request this resource and assistance.

LSC's Vice President for Programs, Randi Youells, also promotes diversity concerns in other contexts. An important aspect of diversity is the development of the next generation of leaders, particularly from populations traditionally overlooked for leadership positions, such as women, persons of color, and individuals with disabilities. Through speaking engagements and articles for legal journals, the Vice President

emphasizes the benefits grantees derive from staff and boards that reflect the cultural experiences of the client communities they serve. During the reporting period, the Vice President testified before the American Bar Association Commission on Women in the Profession on the urgency of nurturing new leaders within LSC programs, and the importance of promoting diversity in this effort. She also spoke on this subject to state justice communities in Arizona, New Mexico and Oklahoma, among others, and at grantee events in South Carolina, Vermont and Virginia.

During the reporting period, LSC dedicated significant time to developing guidance for its grantees on the provision of legal services to individuals with limited English proficiency. An increasing number of grantees' clients throughout the country do not speak English well, if at all. In order to comply with federal civil rights laws and LSC's grant assurances, grantees must expand their service strategies and procedures to include communities with limited English proficiency. During the reporting period, LSC began preparation of a Program Letter providing guidance on this issue, which will be transmitted to programs before the close of 2003. The letter addresses the importance of bilingual staff and the translation of vital legal documents, as well as methods of assessing both the size of limited English proficiency client populations and the legal needs of such populations.

In the process of promoting provision of legal services to clients with limited English proficiency, LSC has learned that a greater number of legal services advocates are bilingual today than ever before. More than 22 percent (22%) of staff in LSC-funded programs report that they speak more than one language. This number has grown continuously since 1999.

Civil Asset Forfeiture Reform Act

During the year 2000, President Clinton signed into law the Civil Asset Forfeiture Reform Act ("CAFRA"), Pub. L. 106-185, 114 Stat. 202. Among other things, CAFRA provides that indigent persons whose homes are subject to civil forfeiture shall be entitled to be "represented by an attorney for the Legal Services Corporation." Although the CAFRA provision involving LSC became effective in 2000, LSC only received one request from court personnel for representation in a relevant case prior to 2003. During the reporting period, however, LSC received several additional requests for representation for cases in Maryland and Ohio. LSC has responded to each such request by obtaining skilled counsel from the appropriate jurisdiction for each eligible client.

Rulemaking Activities

During the reporting period, LSC published a revised index to 45 CFR Part 1626, Restrictions on Legal Assistance to Aliens. The revised index does not make any substantive change to the regulation, but rather sets forth an updated listing of the documents LSC grantees may rely on in verifying eligibility of certain legal aliens for legal assistance.

As of the end of this reporting period, the following three rulemakings remain open: the outside practice of law (by full-time attorneys working for LSC grantees), appearing at 45 CFR Part 1604; financial eligibility, appearing at 45 CFR Part 1611; and restrictions on legal assistance to aliens, appearing at 45 CFR Part 1626.

Litigation Update

In *Legal Services Corporation v. Client Centered Legal Services of Southwest Virginia, Inc.*, Civil Action No. 1:01 CV 00038 (W.D.V.A.), LSC sought to recover real property purchased with LSC funds from a former grantee, in order to transfer the property to its existing grantee and thereby retain scarce resources in the federally-funded legal services community. On August 14, 2002, the United States District Court for the Western District of Virginia, Abingdon Division, granted LSC's motion for summary judgment in the case and ordered the defendant to follow LSC's directions regarding disposition of the property. The defendant appealed the decision, and on September 23, 2003, the United States Court of Appeals for the Fourth Circuit heard arguments in the case. On October 22, 2003, the appellate court issued an unpublished opinion affirming the District Court's decision, and adopting the rationale set forth in the lower court's opinion.

On October 29, 2003, the United States Court of Appeals for the Second Circuit issued a summary order affirming the decision of the United States District Court for the Southern District of New York in *Bronx Legal Services v. Legal Services for New York City and Legal Services Corporation,* Civil Action No. 02-CV-6199 (S.D.N.Y.). In this case, Bronx Legal Services ("BLS") challenged LSC's state planning process and alleged that through the process, Legal Services for New York City ("LSNY") and LSC attempted to gain control of BLS through a reorganization of LSNY and its subgrantees. BLS also claimed that this alleged effort to gain control over it through a reorganization of LSNY was in retaliation for BLS filing a lawsuit against LSNY and LSC opposing a request of LSC's Office of Inspector General for "confidential information." (S*ee Bronx Legal Services, et al. v. Legal Services Corporation, Legal Services for New York City and Edouard R. Quatrevaux*, Civil Action No. 00 CIV 3423 (S.D.N.Y.)). If it wishes to do so, BLS has ninety (90) days from the entry of judgment to appeal the decision to the United States Supreme Court.

Finally, in *Bronx Legal Services, et al. v. Legal Services Corporation, Legal Services for New York City and Edouard R. Quatrevaux***,** Civil Action No. 00 CIV 3423 (S.D.N.Y.), a matter in which LSC's Office of Inspector General ("OIG") requested certain information from LSC grantees and the grantees thereafter filed suit against LSC and the OIG, the plaintiffs filed a Petition for a *Writ of Certiorari* with the United States Supreme Court. LSC filed an Opposition to the Petition for a *Writ of Certiorari* on October 22, 2003. The plaintiffs filed the Petition for a *Writ of Certiorari* after the United States Court of Appeals for the Second Circuit affirmed the decision of the United States District Court for the Southern District of New York, holding that summary

judgment had been appropriate because provision of the requested information to the OIG would not be in conflict with New York State Codes, rules and regulations.

Work of the Office of Compliance and Enforcement

LSC's Office of Compliance and Enforcement ("OCE") is charged with a number of functions which ensure that recipients are in compliance with the LSC Act and Regulations. These obligations currently include compliance investigations, prior approvals of some expenditures and activities by grantees, on-site visits to scrutinize compliance with regulations, and the provision of training to recipients.

On Site Visits

From April 1, 2003, to September 31, 2003, OCE conducted on-site visits at the following sixteen (16) programs:

- *Native Hawaiian Legal Corporation*: The purpose of this visit was to assess the program's compliance with Case Service Reporting ("CSR") and Case Management Systems ("CMS"). A final report has been sent to the program acknowledging the corrective action taken, and OCE will soon conduct a follow-up visit related to the CSR/CMS review.

- *Legal Services of Northern Michigan*: The purpose of this visit was to assess the program's compliance with CSR reporting and CMS. A final report has been sent to the program. The program has addressed most of the issues raised in the report.

- *Southern Minnesota Regional Legal Services*: The purpose of this visit was to assess the program's compliance with CSR reporting and CMS. A draft report was issued, and OCE is currently awaiting the program's response.

- *Guam Legal Services Corporation*: The purpose of this visit was to assess the program's compliance with CSR reporting and CMS. A draft report was issued, and OCE is currently awaiting the program's response.

- *Neighborhood Legal Services (Pittsburgh, Pennsylvania)*: The purpose of this visit was to conduct a follow-up to a prior CSR/CMS review. Prior issues have been addressed by the program, and a final letter is being prepared to send to the program.

- *Montana Legal Services*: The purpose of this visit was to assess the program's compliance with CSR reporting and CMS. A final report has been sent to the program. The program is addressing the issues identified in the final report.

- *Community Legal Services (Phoenix, Arizona)*: The purpose of this visit was to assess the program's compliance with CSR reporting and CMS. A draft report has been sent to the program. OCE is awaiting the program's response.

- *Northeast New Jersey Legal Services*: The purpose of this visit was to assess the program's compliance with CSR reporting and CMS. A draft report is being prepared to send to the program.

- *Legal Aid of Southeastern Pennsylvania*: The purpose of this visit was to assess the program's compliance with CSR reporting and CMS. A draft report is being prepared to send to the program.

- *Wyoming Legal Services*: The purpose of this visit was to assess the program's compliance with CSR reporting and CMS. A draft report is being prepared to send to the program.

- *Neighborhood Legal Services (District of Columbia)*: The purpose of this visit was to assess the program's compliance with CSR reporting and CMS. A draft report is being prepared to send to the program.

- *Capital Area Legal Services (Baton Rouge, Louisiana)*: The purpose of this visit was to assess the program's compliance with CSR reporting and CMS. A draft report was sent to the program together with a corrective action plan. The program responded, and OCE is drafting a final report.

- *Utah Legal Services*: The purpose of this visit was to conduct follow-up to a prior CSR/CMS review. OCE is preparing a letter for the program outlining the progress made and noting further corrective actions that are necessary.

- *Legal Services Law Line of Vermont, Inc.*: The purpose of this visit was to assess the program's compliance with CSR reporting and CMS. A draft report is being prepared to send to the program.

- *Statewide Legal Services of Connecticut*: The purpose of this visit was to conduct follow-up to a prior CSR/CMS review. A final letter was sent to the program.

- *Southwestern Pennsylvania Legal Services, Inc.*: The purpose of this visit was to assess the program's compliance with CSR reporting and CMS. A draft report is being prepared to send to the program.

A-50 Follow-Up

During the reporting period thirty-five (35) findings were referred for A-50 follow-up. Management has reviewed and closed all referred findings. Additionally, one (1) finding was referred to management for follow-up as a result of the Office of

Inspector General's ("OIG") program integrity audit of Legal Services of South Central Michigan. Follow-up activities are currently pending review by LSC management.

Prior Approval Under 45 C.F.R. Part 1630

During the reporting period, OCE reviewed and approved fifteen (15) requests totaling $652,645 to lease or purchase personal/non-expendable property pursuant to 45 C.F.R. Part 1630.

Private Attorney Involvement under 45 C.F.R. Part 1614

LSC's Private Attorney Involvement ("PAI") regulation, 45 C.F.R. Part 1614, requires that all recipients devote an amount equal to at least 12.5% of their respective Basic Field Grants to involve private attorneys in the delivery of legal assistance to eligible clients. A provision of this regulation (i.e. 45 C.F.R. § 1614.6) allows recipients to request either a partial or complete waiver of this requirement in circumstances in which they have been unable to meet the obligation during a given year. If a recipient's circumstances warrant a waiver, OCE will either waive the requirement and adjust the requirement for that year by the amount of the shortfall, or increase the next year's requirement by the amount of the shortfall. During the reporting period, OCE granted one (1) waiver request pursuant to 45 C.F.R. § 1614.6.

All follow-up on PAI compliance is conducted during the review of the recipient's audit report for the following grant year, and if necessary, the PAI program is reviewed as part of the CSR/CMS review.

Subgrants Under 45 C.F.R. Part 1627

Pursuant to 45 C.F.R.1627.1, a recipient may subgrant a portion of its LSC funding to another entity to conduct certain activities related to the recipient's programmatic activities. Such activities include those that would otherwise be undertaken by the recipient itself, such as representation of eligible clients, or activities which provide direct support to a recipient's legal assistance activities, such as a PAI component.

OCE approved nineteen (19) recipient subgrants during the noted time period.

Fund Balances Under 45 C.F.R. Part 1628

LSC recipients whose annual audits report fund balances in excess of ten percent (10%) of their total LSC annualized support, are required to request a waiver from LSC pursuant to 45 C.F.R. § 1628.4, in order to carry over the excess balance to the following year. Recipients may request a waiver to retain fund balances in excess of 25% of LSC support only for extraordinary and compelling reasons. In the absence of a waiver, LSC is required to recover the excess fund balance pursuant to 45 C.F.R. §1628.3.

During the reporting period, OCE reviewed and approved nineteen (19) fund balance waiver requests totaling $1,264,125.

When OCE grants a fund balance waiver, it informs the relevant program that the excess fund balance should be reported separately in the recipient's next audit, either as a separate fund or by a supplemental schedule in the audit report. The separate reporting is by line item to show exactly how the excess fund balance was spent. OCE ensures that the excess fund balance is reported appropriately through its review of the recipient's annual audit.

Complaint Investigations

OCE is responsible for the review, investigation and disposition of complaints filed by members of the public (e.g. applicants, clients, local recipients, staff and Board members, opposing counsel/parties, taxpayers, etc.) related to the activities of LSC recipients. During the reporting period, thirty-three (33) such complaints were closed. The majority of the complaints closed during the reporting period involved denial of services (i.e. complaints from applicants who were financially ineligible, outside of program priorities, or requesting assistance with fee-generating cases or other cases prohibited by Congressional restrictions).

Audit Reports

The fiscal year cycle adhered to by LSC grantees differs from program to program. While the majority of grantees operate on the fiscal year cycle that ends on December 31st of each year, others adhere to cycles that end on January 31st, March 31st, May 31st, June 30th, or September 30th respectively. LSC grantees must submit their audit reports (including audited financial statements) to LSC's OIG within 120 days of the end of their respective fiscal years.

The OIG ensures that all grantees submit their audit reports to LSC in a timely fashion. OCE then reviews the audited financial statements for compliance with the Accounting Guide for LSC Recipients (issued in August 1997) and LSC financial-related regulations (i.e. 45 C.F.R. Parts 1610, 1614, 1627, 1628, 1630, 1631, and 1642).

After the OIG reviews and processes grantees' audit reports in its audit tracking system (AIMS), a copy of each grantee's audit report is sent to OCE. During the reporting period, OCE reviewed forty-two (42) audit reports forwarded to it by the OIG.

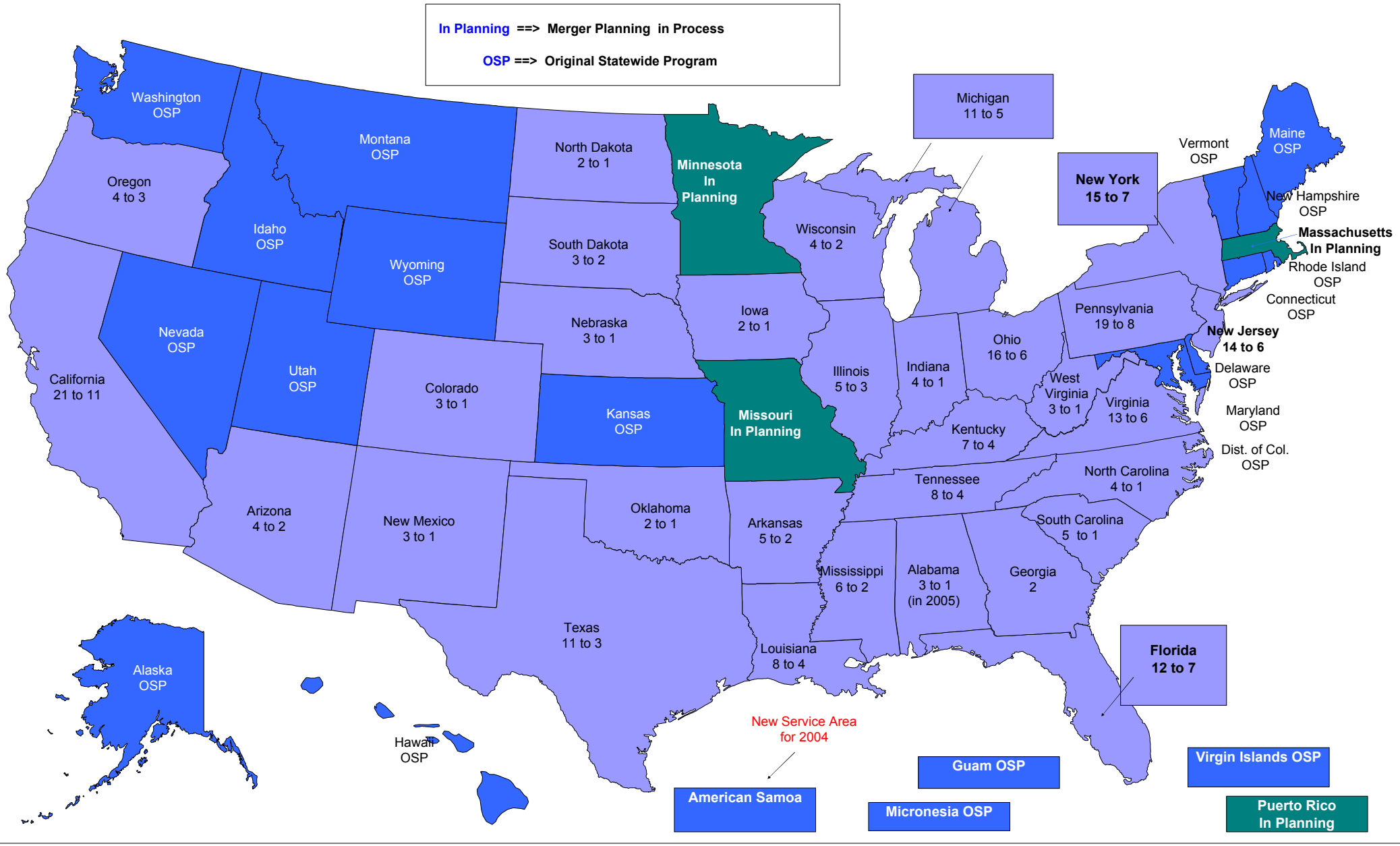
TABLE 1

Management Report on
Office of Inspector General Audits of Grantees
Issued With Questioned Costs
For the Six Month Period
Ending September 30, 2003

	Number of Reports	Disallowed Costs
A. Audit Reports for which final action had not been taken by the commencement of the reporting period.	0	$0
B. Audit Reports on which management decisions were made during the reporting period.	0	$0
Subtotals (A + B)	0	$0
MINUS:		
C. Audit Reports for which final action was taken during the reporting period:	0	$0
(i) Dollar value of disallowed costs that were recovered by management through collection, offset, property in lieu of cash, or otherwise.	0	$0
(ii) Dollar value of disallowed costs that were written by management.	0	$0
D. Audit Reports for which no final action has been taken by the end of the reporting period.	0	$0
Audit Reports for which no final action had been taken within six months of issuance	0	$0

TABLE 2

Management Report on Audit Reports Issued During The Six Month Period Ending September 30, 2003, With Recommendations That Funds Be Put to Better Use By Management Agreed to in a Management Decision

	Number of Reports	Dollar Value
A. Audit Reports for which final action had not been taken by the commencement of the reporting period.	0	$0
B. Audit Reports on which management decisions were made during the reporting period.	0	$0
Subtotals (A + B)	0	$0
MINUS:		
C. Audit Reports for which final action was taken during the reporting period:	0	$0
(i) Dollar value of recommendations that were actually completed.	0	$0
(ii) Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed.	0	$0
D. Audit Reports for which no final action has been taken by the end of the reporting period.	0	$0
Audit Reports for which no final action had been taken within six months of issuance.	0	$0

Basic Field General Service Areas Affected by Mergers and Consolidations - 1997 to 2004