

# **LEGAL SERVICES CORPORATION**

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## **BOARD OF DIRECTORS' SEMI-ANNUAL REPORT TO THE CONGRESS**

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**Decisions, Final Actions, and Comments  
on the Office of Inspector General's  
Semi-Annual Report to the Congress**

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**April 1, 1995 - September 30, 1995**

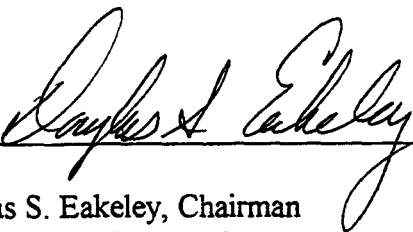
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**November 30, 1995**

## FORWARD

I am pleased to transmit the report of the Legal Services Corporation ("LSC" or "Corporation") regarding the Semiannual Report of LSC's Office of Inspector General ("OIG") for the six-month period of April 1, 1995 through September 30, 1995.

The Corporation's Board of Directors ("Board") recognizes the value of the Inspector General function and is committed to working with the Inspector General to achieve our goal of providing high quality legal assistance to the poor of our nation.



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Douglas S. Eakeley, Chairman  
Legal Services Corporation

November 30, 1995

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## EXECUTIVE SUMMARY

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The Board of Directors values the support and assistance of its Office of Inspector General (“OIG”). During this reporting period the Corporation and its OIG continued to work together to assure full implementation at the Corporation of both the letter and spirit of the Inspector General Act and its amendments.

During this reporting period, the Corporation continued its enforcement efforts by conducting approximately 18 on-site compliance visits per month and began planning for the enforcement of the new restrictions on the use of funds for the delivery of legal assistance contained in pending appropriations legislation.

The Board directed Corporation staff to 1) do all that is necessary to convert the Corporation’s grantmaking system to one of competitive bidding, and 2) develop for Board consideration and adoption regulations on competitive bidding for grants, timekeeping by its grantees and restrictions as to the representation of individuals in certain public housing evictions.

Corporation staff and the OIG joined in recommending to the Board the transfer to the OIG of the responsibility for grantee audits and the establishment of audit policy. The Board approved the transfer and also approved the application of Government Auditing Standards and OMB Circular A-133 to future grantee audits. After the reporting period, management began the process of developing a new *Accounting Guide for Recipients and Auditors*.

## BACKGROUND

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### **The Legal Services Corporation: An Overview**

The Corporation is a private, non-profit corporation established in the District of Columbia by the Legal Services Corporation Act of 1974, as amended ("LSC Act"),<sup>1</sup> to provide financial support for legal assistance in non-criminal proceedings to persons unable to afford legal services. Under the LSC Act, the Corporation is governed by an eleven-member Board of Directors appointed by the President of the United States, by and with the advice and consent of the Senate. The Board appoints the President of the Corporation, 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 extended specific provisions of the 1978 Act to LSC and required LSC to establish an OIG. Accordingly, such an office was established by and for the Corporation, and the Inspector General reports to and is under the general supervision of the Corporation's Board of Directors.

### **Grant Activities**

The Corporation funds 323 legal services programs, providing 281 basic field grants, 32 Native American grants, 45 migrant grants, 73 state support grants and 16 national support grants.<sup>2</sup> In addition, the Corporation funds 10 supplemental field programs and 5 training centers, and provides 6 grants for computer assisted legal research. To carry out the purposes of the LSC Act, Congress appropriated the Corporation \$415-million for fiscal year 1995, but \$15-million of the fiscal year appropriation was rescinded by Pub. L. 104-6.

### **LSC Management Initiatives**

During the reporting period, the Corporation focused much of its energy on implementation of a competitive system for the award of grants, including the drafting of a proposed competition regulation and publication of same in the Federal Register for comment. Management issued a request for proposals and, while awaiting enactment of FY 1996 appropriations legislation, currently is in the process of reviewing applications for

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<sup>1</sup> 42 U.S.C. §§ 2996 - 2996l.

<sup>2</sup> Some programs receive more than one type of grant.

calendar year 1996. As to its existing grantees, the Corporation continued its enforcement efforts by conducting approximately 18 compliance visits per month.

Although the act appropriating funds to the Corporation for fiscal year 1996 has not yet been enacted, the pending legislation contains new restrictions on the use of funds for the delivery of legal assistance. During the reporting period, management began planning for enforcement of these new restrictions.

The IG proposed that the responsibility for grantee audits and the establishment of audit policy be transferred to the OIG. Management studied the issue and endorsed the transfer. Acting in concert, the OIG and management presented their recommendation for the transfer to the Board, and the Board adopted it. Also recommended to and approved by the Board was the adoption of Government Auditing Standards and OMB Circular A-133 as applicable to future audits of grantees.

More recently, and after the reporting period, management began the process of replacing the accounting sections of the Corporation's *Audit and Accounting Guide for Recipients and Auditors* with a new *Accounting Guide for Recipients and Auditors*. The new *Accounting Guide* will replace outdated rules with rules that reflect current Generally Accepted Accounting Principles, such as those reflected in the Financial Accounting Standards Board's Statements of Financial Accounting Standards Nos. 116 and 117. The proposed *Accounting Guide* will be published in the *Federal Register* for comment and adopted by the Board of Directors prior to being implemented.

# **GENERAL COMMENTS REGARDING THE OFFICE OF INSPECTOR GENERAL**

## **IG ACT IMPLEMENTATION**

### **Access to Documents**

The Board and Corporation management strive to make available to the Inspector General and his designee(s) all documents to which the IG Act grants the OIG access. During the reporting period, Corporation management and the Inspector General considered the matter and reached an understanding with regard to the scope of OIG access to Corporation information and materials. The Board will address the question in the near future and hopes to resolve the matter to everyone's satisfaction within the next reporting period.

### **Recognition in Regulations and Publications**

**Publications:** The Corporation issued an amendment to its Personnel Manual affirming the Corporation's position against retaliation for employee complaints to the OIG.

**Regulations:** The Board believes that the OIG has a role in responding to requests for information made pursuant to the Freedom of Information Act. The Corporation published revisions to the Corporation's FOIA regulation, which revisions, among other things, transferred responsibility for processing FOIA requests for OIG records to the OIG. Last fall, however, the Board voted to withdraw the rule to allow for a still more comprehensive review and a complete overhaul of the rule, as part of the Board's overall review of the Corporation's regulations. We plan to revisit the FOIA regulation and hope to publish a final regulation within the next six months. In the interim, we will continue using an informal internal procedure, pursuant to which the OIG responds to FOIA requests for OIG documents.

### **Responsibility for Grantee Audits**

During this reporting period, Corporation management and the OIG discussed the transfer of responsibility for setting audit policy with respect to grantee financial statement audits and responsibility for the review of these audits. The Board recently transferred these audit responsibilities to the OIG and the OIG has advised that this eliminates any organizational impairment in the area of grantee financial statement audit policy.

The OIG will now assume responsibility for preparing a revised Corporation *Audit Guide*, a draft of which was prepared by the OIG in consultation with Corporation management. The new Audit Guide, based on *Government Auditing Standards*, will be published for public comment and will be considered by the Board. The Audit Guide will include a compliance supplement, which will

identify financial-related regulatory requirements for compliance monitoring by the independent auditors conducting the annual grantee financial statement audits. As it is a programmatic function, Corporation management will be responsible for identifying the applicable regulations for inclusion in the compliance supplement. OIG will be responsible for developing suggested procedures for auditor assessment of compliance.

### **Terms of IG's Employment**

During the last reporting period, the Board, in response to the Inspector General's request, agreed to rescind the Inspector General's employment contract. The Inspector General also recommended that the Board put in place a mechanism linking the compensation of the Inspector General to and awarding increases based on the compensation of the LSC President, the other official at the Corporation who reports directly to the Board, and the Board adopted this recommendation.



# **PROGRAM INTEGRITY**

## **AUDIT ACTIVITIES**

### **Status of Findings and Recommendations**

Corporation management continues to work with the OIG in an effort to resolve the recommendations remaining open from the Revenue Audit and the Performance Audit of Grantee Monitoring.

### **Summary of Findings and Recommendations**

#### **Annual Corporate Audit**

The Board appreciates the assistance of the OIG in the conduct of the Corporation's FY 1994 financial statement audit.

#### **Quality Assurance Reviews**

The Board has no reason to doubt the accuracy of the OIG's account of its quality assurance reviews, and is committed to providing full cooperation and support to the OIG in its continued efforts in this regard.

#### **Other Audit Activities**

Now that responsibility for audit policy governing grantee financial statement audits has been transferred to the OIG, the Board looks forward to the OIG's presentation of the new Audit Guide.

## **INVESTIGATIVE ACTIVITIES**

The Board supports OIG's investigative activities and is committed to providing assistance and cooperation to these efforts. The information regarding investigative activity during the reporting period demonstrates the continued cooperation between OIG and other corporate staff. For example, the OIG issued a Management Advisory, outlining waste and abuse of Federal funds by an LSC grantee and, based upon this advisory, management was able to respond to correct the deficiencies.

## LEGISLATIVE AND REGULATORY REVIEW

The Corporation has continued its comprehensive regulatory review. During this reporting period, the Board's Operations and Regulations Committee, with the assistance and dedication of Corporation staff, the OIG and interested parties, has made great progress in its regulatory review efforts. The Board appreciates the work of all involved and is confident that the fine work will continue unabated.

As to the specific issue of right of access by the Corporation to confidential client information in the files of its recipients, however, the OIG expresses disagreement with the Corporation's interpretation of its right of access to confidential client information, as implemented in its proposed regulatory revisions.

The basic difference between the interpretation contained in the proposed rules and that advocated by the OIG centers on the impact of section 1006(b)(3) of the LSC Act on the scope of LSC's entitlement to confidential information. This provision expressly applies to every provision of the LSC Act and prohibits the Corporation from "interfer[ing] with any attorney in carrying out his professional responsibilities to his client . . . or abrogat[ing] as to attorneys in programs assisted under [the LSC Act] the authority of a State or other jurisdiction to enforce standards of professional responsibility generally applicable to attorneys in such jurisdiction." 42 U.S.C. § 2996e(b)(3).

In this provision, Congress recognized that the lawyer-client relationship is governed by a set of rules that are enforced by authorities in each state. Further recognizing that a poor individual should be afforded the same protections as any client in an attorney-client relationship, Congress required the Corporation to defer to the determinations made by those authorities with respect to issues governed by those rules.

According to the OIG, any interpretation of section 1006(b)(3) of the LSC Act which would place a limit on LSC's access to client confidences would render superfluous and without effect those provisions in the LSC Act which seemingly grant the Corporation unfettered access to information except to the extent such information is subject to the attorney-client privilege. See LSC Act, §§ 1008(a) & (b); 1009(d). The interpretation in the proposed rules, on the other hand, attempts to give full effect to both section 1006(b)(3) and the access provisions of the LSC Act. Thus, the proposed rules would not require Corporation access to information in any jurisdiction in which local authorities have determined that such information, although not subject to the attorney-client privilege, must be held in confidence by attorneys under that jurisdiction's rules of professional responsibility. The proposed rules attempt to give full effect to both section 1006(b)(3) and section 1009(d), while allowing responsible and effective oversight of LSC funds.

## **PROGRAM ASSESSMENT**

The Board looks forward to receiving the Inspector General's report on the "Potential for Improving Legal Services Delivery Capacity Through Technology." The Corporation's goal is to provide high quality legal assistance to the poor of our nation in the most effective and economical manner. Especially in this time of scarce resources, any means by which we may improve our capacity for meaningful access to justice will be a welcome advancement.

**TABLE 1****Management Report On Office of Inspector General Audits  
With Disallowed Costs****For the Period October 1, 1994 to March 31, 1995**

	<b>Number of Reports</b>	<b>Number of Recom.</b>	<b>Disallowed Cost</b>
A. Audit reports with management decisions on which final action had not been taken by the beginning of this reporting period	0	0	0
B. Audit reports on which management decisions were made during this reporting period	0	0	0
C. Total audit reports pending final action during this reporting period. (Add Lines A and B)	0	0	0
D. Audit reports on which final action was taken during this reporting period:			
1. Recoveries and Adjustments	0	0	0
a. Collections and Other Offsets			
b. Better Use			
2. Write-offs	0	0	0
3. Totals (1 + 2)	0	0	0
4. Final management action exceeding commitment amount	0	0	0
E. Reports for which no final action has been taken by the end of this reporting period	0	0	0

## TABLE 2

### Management Report on Office of Inspector General Audits With Recommendations that Funds be Put to Better Use

For the Period October 1, 1994 to March 31, 1995

		Number of Reports	Number of Recom.	Better Use of Funds
A.	Audit reports with management decisions on which final action had not been taken by the beginning of this reporting period	0	0	0
B.	Audit reports on which management decisions were made during this reporting period	0	0	0
C.	Total audit reports pending final action during this reporting period. (Add Lines A and B)	0	0	0
D.	Audit reports on which final action was taken during this reporting period:	0	0	0
1.	Dollar value of recommendations that were actually completed	0	0	0
2.	Dollar value of recommendations that management concluded should not or could not be implemented	0	0	0
3.	Totals (1 + 2)	0	0	0
4.	Final management actions exceeding commitment amount	0	0	0
E.	Reports for which no final action has been taken by the end of this reporting period	0	0	0