



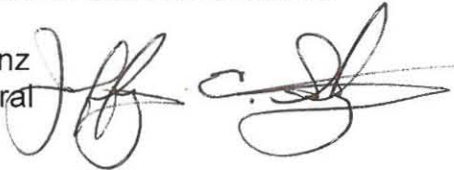
Office of Inspector General
Legal Services Corporation

Inspector General
Jeffrey E. Schanz

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MEMORANDUM

To: Lora Rath, Acting Director
Office of Compliance and Enforcement

From: Jeffrey E. Schanz
Inspector General 

Date: July 10, 2012

Subject: Examination of Expenditures Incurred for the Performance of TIG Grants
Awarded to Southeast Louisiana Legal Services

The attached is our audit report on expenditures of \$227,315 reported by Southeast Louisiana Legal Services (SLLS) for the performance of three TIG grants. The OIG concluded that \$55,741 of the expenditures did not have adequate documentation as required by TIG grant assurances.

TIG grant assurances reference LSC regulations and guidelines that describe documentation requirements for supporting costs. The accurate determination of TIG project costs is important since TIG grant assurances also require that funds provided in excess of project costs be returned to LSC or reprogrammed to other projects with the approval of LSC.

SLLS' written response to the OIG results stated among other things that LSC management represented the TIG grants as "milestone" grants and not "cost reimbursement" grants. The OIG position is that the grant assurances provide references to specific record-keeping instructions and that LSC's practice of disbursing funds based on the achievement of milestones does not override the need to adequately and contemporaneously document the level of effort actually spent on the projects. Without knowing actual TIG project costs, LSC management is unable to effectively manage the funding for TIG projects.

The report includes a questioned cost referral to the Office of Compliance and Enforcement. Please contact Ronald Merryman at (202) 295-1663 or via e-mail at RM@oig.isc.gov if you have any questions.

Attachment

cc: James Sandman, President
Janet LaBella, Director, Office of Program Performance
Brian Lenard, SLLS Executive Director

**Examination of Expenditures Incurred for the Performance
of TIG Grants awarded to Southeast Louisiana Legal Services**

RNO: 619081

Report No. AU 12-04

The Legal Services Corporation (LSC) Office of Inspector General (OIG) conducted an examination of expenditures incurred for the performance of Technology Initiative Grants (TIG grants) awarded to the Southeast Louisiana Legal Services (SLLS). The objectives of the examination were to determine whether the TIG grant expenditures for three SLLS TIG grants that closed during the period of January 1, 2009 through March 31, 2011, were allowable and whether the stated purposes of the TIG grants were achieved. The examination's background and its scope and methodology are discussed in Appendix I.

RESULTS

The OIG concluded that the stated purposes of the three TIG grants appeared to have been met. However, the OIG also concluded that for two grants, \$55,741 of personnel and fringe benefit expenditures were not supported by adequate documentation and are thereby considered questioned costs. OIG conclusions are based on a review of applicable SLLS books, records, internal controls, TIG grant assurances and requirements, applicable regulations and guidance, and OMB Circular A-122, Cost Principles for Nonprofit Organizations.

The following chart lists the total expenditures of all three grants, by budget category, as reported to the OIG by SLLS on July 28, 2011. The chart also includes the amounts questioned by the OIG for each budget category, and the related OIG explanatory notes.

Line-Item	TIG Expenditures (Claim)	Questioned Costs	Notes
Personnel (TIG 04383)	\$34,663	\$17,501	1
Fringe Benefits (TIG 04383)	\$2,652	\$1,493	1
Personnel (TIG 08383)	\$30,120	\$30,120	2
Fringe Benefits (TIG 08383)	\$6,627	\$6,627	2
Space Cost (TIG 08383)	\$3,000		
Software (TIG 04382)	\$57,091		
Supplies (TIG 08383)	\$253		
Contracts (TIG 04382)	\$92,909		
Total All	\$227,315¹	\$55,741	

1. SLLS's expenditure submission reported \$34,663 in personnel expenses for TIG 04383. However SLLS' books and records only supported \$26,250 in personnel expenses, a difference of \$8,413.

In addition, SLLS's books and records showed that \$9,088 in personnel expenses and \$1,493 in related fringe benefits were spent on non-TIG activities but charged to TIG 04383. The SLLS Technology Coordinator worked on non-TIG activities for a 4-month period for which SLLS invoiced a non-LSC source 100% of the Technology Coordinator's time. However, \$9,088 in personnel expenses and \$1,493 in related fringe benefits paid to the SLLS Technology Coordinator during this 4-month period were charged to TIG 40383.

The OIG is questioning \$17,501 in personnel expenses (\$8,413 unsupported and \$9,088 spent on non-TIG activities) and \$1,493 in fringe benefits (related to personnel expenses spent on non-TIG activities) and is referring the questioned costs to LSC management for review and action pursuant to 45 CFR Part 1630.

2. The grantee's labor hour charges to TIG grant 08383 were not based on adequate time distribution records as required by the grant. Time distribution records would identify the total time actually spent by all individuals who charge time directly to the TIG grants.

¹ SLLS did not include the \$4,074 that was part of two grants received but withheld by LSC headquarters. The money was used by LSC Headquarters to fund two grantee staff members to attend LSC's annual 2005 TIG conference. LSC Headquarters paid, up to the amount withheld, for the individuals' airfare, hotel room, conference fee, and provided at least two meals for each day of the conference. Any unused funds provided for TIG conference purposes reverted to LSC for future TIG funding. SLLS could not use these funds for any other purpose.

TIG grant assurances for the SLLS TIG grants require that LSC rules, regulations, guidelines and directives are followed. Pursuant to LSC regulations, 45 C.F.R 1630.3 (d), Salary and Wages charged directly to Corporation grants and contracts must be supported by personnel activity reports. Guidance provided in the LSC Accounting Guide for LSC Recipients indicate that labor hours distributed to projects, contracts, and grants are based on time distribution records that identify the total time actually spent by all individuals who charge time directly to projects, contracts, and grants. Lastly, OMB Circular A-122, Cost Principles for Nonprofit Organizations, which is referenced in the LSC regulations, state that the distribution of salaries and wages to awards must be supported by personnel activity reports.

The amounts reported as personnel and fringe benefits were the same amounts as included in the budget for this grant. According to SLLS officials, the reported amounts were based on estimates of the level of effort by the Website Coordinator for activities related to the TIG grant and not based on personnel activity reports. The Website Coordinator, who performed other activities besides TIG project-related activities, recorded her time on personnel activity reports. However, the reports did not adequately distinguish between TIG project activities and non-TIG activities. During our fieldwork, SLLS officials attempted to reconstruct the actual time spent on TIG project activities by reviewing personnel activity reports and related notes, but were unable to adequately support the labor charges.

Without adequate labor distribution records or other acceptable documentation to support the charges, the OIG is unable to determine how much time was actually spent on these TIG grants. Consequently, the OIG questions \$36,747 as unsupported cost and, pursuant to 45 CFR Part 1630, is referring these costs to LSC management for review and action.

GRANTEE COMMENTS

The OIG provided a written draft of its review results to SLLS on May 7, 2012. SLLS' written response is included at Appendix II and summarized below.

SLLS indicated that it relied on representations by LSC that the grants were "milestone" grants and not "cost reimbursement" grants. SLLS further reasoned that TIG grants were therefore earned by meeting the milestones of the grants, not by incurring expenses related to the grants.

For Grant No. 04383, SLLS stated that it was able to prove to the audit team that it had TIG-related personnel expenses and fringe benefits that equaled the costs charged to the grant. SLLS further indicated that journal entry errors were discovered by the audit team and that steps have been taken to avoid future erroneous journal entries.

For Grant No. 08383, SLLS stated that adequate documentation for the questioned personnel costs was offered to the audit team but the audit team declined to review the

documentation. SLLS also indicated that the personnel activity reports that supported the questioned costs were in line with requirements of OMB A-122 and LSC cost regulation, 45 C.F.R. 1630.3(d).

OIG EVALUATION OF GRANTEE COMMENTS

Regarding SLLS comments about representations by LSC that grants were “milestone” grants and not “cost reimbursement” grants, TIG grant assurances require compliance with LSC regulations, guidelines, and directives that provide specific written instructions about time-keeping requirements. Further, SLLS should have known that it needed to track project costs in order to comply with TIG grant assurances requiring grantees to return or seek reprogramming approval for funds provided in excess of project costs.

Regarding SLLS comments about the personnel cost related to TIG grant 04383, the OIG continues to consider the cost to be questioned. Adequate documentation was not provided for the questioned amount and the journal entry errors did not impact our finding. The grantee’s comments confirm amounts being questioned were paid by another funding source. SLLS was not able to provide other supporting documentation to substantiate the amount being questioned.

The OIG takes exception with SLLS comments that the audit team declined to review adequate documentation for TIG grant 08383. The audit team did not decline to review adequate documentation. During the site visit the audit team reviewed personnel activity reports that did not adequately distinguish between TIG project activities and non-TIG project activities. After the team returned from the site visit an SLLS official identified entries on a number of these reports that might be TIG-related activities, submitted them to the OIG, and offered to review all of the reports in a similar manner. The OIG reviewed the submission but since the audit team still considered the documentation to be inadequate the audit team indicated that it would not be necessary to review the remaining reports in the same manner. The documentation was not adequate because:

- The IT professional who worked on the TIG grant also worked on other IT tasks not related to the TIG grant. The technical descriptions of tasks performed that were provided by the IT professional on the personnel activity reports did not identify the TIG grant and did not clearly indicate by the nature of the technical tasks whether they were TIG-related.
- The SLLS’s official’s after-the-fact review of entries on the personnel activities reports to identify time that he believed was spent on TIG grant 08383 was not contemporaneous. LSC regulation 45 CFR 1630.3 (*Standards governing allowability of costs under Corporation grants or contracts*) indicates, among other things, that expenditures under the recipient’s grant or contract are allowable only if the recipient can demonstrate that the cost was adequately and contemporaneously documented.

CONCLUSION AND RECOMMENDATION

TIG grantees are required to return funds provided in excess of project costs or seek approval for reprogramming the funds. Without maintaining the required records on actual grant expenditures, the TIG grantee cannot comply with the requirement. SLLS has reported that it has now modified its activity report to track employees' direct time on grants. For TIG grants 04383 and 08383, the OIG could not verify that personnel and fringe benefit costs in the amount of \$55,741 charged to the grants were actually expended on the TIG grants, and therefore considers the charges questioned costs.

This report contains no recommendations requiring LSC management response. LSC current regulations state the requirement to maintain adequate records of expenditures of LSC funds. For fiscal years 2010 and 2011, LSC has instructed TIG recipients to submit final actual expenditures on the project and to consult LSC's Accounting Guide for LSC Recipients, 2010 Edition, for guidance on financial accounting and reporting standards. Through this report, the OIG is referring \$55,741 of questioned costs to the Office of Compliance and Enforcement for review in accordance with 45 C.F.R. § 1630.7.

BACKGROUND

During an audit of LSC Headquarters' management of the TIG program, the OIG noted that although LSC required TIG recipients to provide periodic reports about the grants, LSC did not normally maintain information on the actual expenditures incurred in performing the TIG grants. As a result, the OIG planned audits of individual TIG grants to examine expenditures incurred in performing the grants.

The OIG requested specific financial information from recipients on all terminated TIG grants, regardless of termination date, as well as all TIG grants that were completed during the period January 1, 2009 through March 31, 2011. All TIG recipients reported grant expenditures by budget line item. SLLS reported expenditures for three closed TIG grants: 04382, 04383, and 08383. The total expenditures for the three grants reported to the OIG, plus the TIG conference expenditures paid directly by LSC, amounted to \$231,389.

The amount and purpose of each grant is as follows:

- TIG 04382 was awarded in the amount of \$152,037 to implement a statewide centralized practice management system.
- TIG 04383 was awarded in the amount of \$39,352 to fund a technology coordinator for one year to ensure continued progress of the statewide legal practice management system funded by TIG 04382.
- TIG 08383 was awarded in the amount of \$40,000 to develop computer-generated court forms for pro-se litigants.

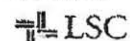
SCOPE AND METHODOLOGY

The audit was conducted in accordance with Government Auditing Standards for an examination-level attestation engagement. As such the audit examined evidence supporting the grantee's compliance with grant provisions related to expenditures, obtained an understanding of internal controls that were material to the grantee's compliance with the terms and conditions of the grant, and performed other procedures necessary to evaluate the grants. The review was limited in scope and not sufficient for expressing an opinion on the entire system of grantee internal controls over financial operations or compliance with LSC regulations.

To accomplish the objectives of the examination the following steps were performed:

- The appropriateness of expenditures and the existence of adequate supporting documentation were reviewed for each TIG grant. Since there were few expenditures for each TIG grant, we reviewed 100 percent of the expenditures. To assess the appropriateness of grantee expenditures, we reviewed invoices, contracts, and employee time records. The appropriateness of grantee expenditures was evaluated on the basis of the grant agreements, applicable laws and regulations, and LSC policy guidance.
- Internal controls over personnel and contracting expenses were reviewed and tested, which included a review of relevant grantee policies and procedures. Grantee officials were interviewed to obtain an understanding of the internal control framework, and grantee management and staff were interviewed as to their knowledge and understanding of the processes in place.
- To determine whether the stated purpose of the TIG grants was achieved, we held discussions with grantee staff and received demonstrations on grant outcomes.

LAW OFFICES OF

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June 5, 2012

Mr. Richard Adkins
Office of Inspector General
Legal Services Corporation
3333 K Street, NW, Third Floor
Washington, DC 20007

Re: Response to Inspector General's Draft Report Regarding TIG grants 04382, 04383, 08383

Dear Mr. Adkins:

Thank you for the opportunity to comment on your draft report on the review of three Technology Initiative Grants, which were awarded to Southeast Louisiana Legal Services (SLLS) in 2004 and 2008. We also thank you for the extension granted to comment on your draft.

1. Overview of our comments on your draft report

- Your report notes that we met the performance goals of all three Technology Initiative Grants. Your report did not find that SLLS actual costs for these successful grants were less than the grant awards. We agree with these conclusions.
- For Grant No. 04382, your report found no errors and questioned no costs. We agree with this conclusion.
- For Grant No. 08383, your report questioned all personnel costs based on your finding that the costs were not documented. We disagree with these findings.
- For Grant No. 04383, your report questioned some personnel costs as being charged to non-TIG activities and other personnel costs as being unsupported by adequate documentation. We disagree with these findings.

2. Grant No. 08383

a. Overview of SLLS response to 08383 preliminary finding

The preliminary finding of questioned costs of \$36,747 for Grant No. 08383 personnel and fringe benefits for inadequate documentation is incorrect for several reasons:

- Adequate documentation of these personnel expenses was offered to your audit team, but they declined to review the same. A review of SLLS time records will show that actual costs equal to this grant were incurred and paid by SLLS.

- ⊙ SLLS reasonably relied on representations by the Legal Services Corporation that this was a "milestone" grant and not a "cost reimbursement" grant. As you know, these LSC representations were made to all TIG grantees for several years. A milestone grant is a grant where payment is earned upon completion of milestones. Your audit team found that SLLS met the milestones for this grant.

Each of these issues is more fully discussed below:

b. Your inadequate documentation claim

Grant No. 08383 was for the Louisiana statewide website coordinator to develop web resources for self-represented litigants in uncontested divorces. Your report states that all personnel costs for the successful performance of this grant should be disallowed because you were unable to determine how much time was actually spent on this grant.

Your draft report incorrectly states that "During our fieldwork, SLLS officials attempted to reconstruct the actual time spent on TIG projected activities by reviewing personnel activity reports and related notes, but were unable to adequately support the labor charges."

In fact, SLLS officials offered to support the labor charges with adequate time distribution records, but our offer to do so, was never accepted by your team. The team instead chose to disallow all expenses charged to the grant rather than spend the time reviewing the records. SLLS managers offered to assist the audit team to analyze those records to determine how much staff time was spent on the project. This offer was made both during the visit and in an e-mail to your team leader on March 15, 2012. SLLS management still stands ready to provide such an analysis and to discuss with the audit team its parameters and methods for performing such an analysis. Similarly, SLLS is prepared to provide an analysis for that early part of 2010 before the grant was closed.

SLLS did document personnel expenditures for this grant. SLLS provided the auditors with records reflecting payments made during 2009 for the website coordinator's salary and fringe benefits. SLLS provided 148 pages of time slips from its previous case management system and 12 pages of print out from its new case management system. All of these time slips had detailed notes of the activity the website coordinator performed for each part of the day during all of 2009, as well as the amount of time spent on those activities.

SLLS switched case management systems on October 19, 2009. Management advised your team that about 2 January weeks of computerized time records were lost while SLLS tried but failed to convert to the new case management system. However, for a week during this time, the website coordinator was at the TIG conference, which was required by the grant and therefore fully chargeable to the grant.

Under OMB Circular A-122 and the LSC cost regulations, 45 C.F.R. § 1630.3 (d), salaries charged directly to Corporation or federal grants must be supported by personnel

activity reports. These regulations do not specify a particular format for personnel activity reports. The language of A-122 and § 1630.3 (d) only require that the records meet certain criteria, all of which were met in this grant. Clearly, these cost rules contemplate that equivalent records are acceptable to document costs to a specific grant. The level of detail in the SLLS time record for this grant far exceeds what Circular A-122 and § 1630.3 (d) require. Further, SLLS notes that 45 C.F.R. § 1630.3 (d) does not state that salaries and wages charged to each LSC grant must be supported by personnel activity reports. All of the website coordinator's salary was charged to LSC grants and the 160 pages of time records demonstrates that all of her time was spent on LSC activities. The website coordinator was a full-time employee of SLLS and spent 100% of her time on LSC grants.

c. Your questioned costs finding given the actions of LSC in structuring these grants as milestone grants

SLLS and the other LSC grantees were led by LSC to believe that TIG grants were earned by meeting the milestones of the grants, not by incurring expenses related to the grants. Payments were earned as milestones were accomplished. With this particular grant, the expenses were incurred in 2009 and 2010 and SLLS earned payment, when the milestones were completed.

Your Office of Inspector General report has documented the Legal Services Corporation's expectations for cost accounting for TIG Grants. In your report entitled *11-01 Audit of LSC's Technology Initiative Grant Program. 12/08/2010*, your office found that grantees were never required to report to LSC on TIG expenses. *Id* at 30. This Inspector General report stated that your office reviewed 150 TIG grants and only three had adequate documentation of expenses. This Inspector General report further noted that when the grant amount differed from the amount requested, LSC staff did not document adjustments to the proposed budget. This report further stated, "The main reason budgeted amounts were not compared to actual expenditures was there was no LSC policy in place requiring grantees to report on actual expenditures." It was not until 2011, after our grant was fully completed, that LSC inserted into the grant assurances that personnel time be tracked. The TIG milestone instructions were equally silent about the need to track personnel time.

Thus, your own December 2010 audit report of LSC found that virtually all of the 150 grantees relied on LSC's representations that these grants were milestone grants and not cost reimbursement grants. It is highly inequitable for the Inspector General to question the personnel costs for this grant given the aforesaid actions of LSC in administering these TIG grants. Your report suggests that a grantee, misled by the federal funder, should be required to refund monies actually spent in good faith in the complete performance of all work required by the grant.

3. Grant No. 04383

a. Overview of SLLS response to 04383 preliminary finding

Your preliminary finding for this grant is that some personnel costs were spent on non-TIG activities and that other personnel costs were unsupported by adequate documentation.

We disagree with this finding. We have documentation of costs and the non-TIG activities were paid with non-TIG funds. Also, this was a milestone grant and not a cost reimbursement grant.

b. The non-TIG expenditures

This grant was to pay the salary of the Statewide Technology Coordinator, an SLLS employee, to work at the Access to Justice Program of the Louisiana State Bar Association (LSBA). This employee's duties were to implement projects to benefit all Louisiana Legal Services Corporation funded programs. The LSBA supplemented the costs of this project by paying half the personnel costs and all of the overhead costs.

SLLS was able to prove to the audit team repeatedly that it had TIG-related personnel expenses and fringe benefits that equaled the costs charged to the grant.

What your audit team discovered was that SLLS made journal entry errors. The journal entry error meant that expenses and revenue did not end up entered into the same fund. The four month period that the team reflects that SLLS was charging TIG for non-TIG expenses was the four months immediately following one of America's greatest natural disasters, Hurricane Katrina. SLLS' service area was Ground Zero for this destruction.

The employee who was working on this TIG grant, like every able bodied person in the area, stopped her other work to respond to the Katrina disaster during this four month period. Specifically, she was busy developing and implementing technology to set up a disaster call center for the LSBA. As your Inspector General report notes, the LSBA reimbursed SLLS fully for these expenses, and the auditors saw proof of these receipts.

We have taken steps since that time to avoid future erroneous journal entries, by requiring that all such entries be reviewed and approved by the Executive Director, Program Operations.

c. Your questioned costs finding given the actions of LSC in structuring these grants as milestone grants

We incorporate our response in Section 2 c by reference. This was a milestone grant and not a cost reimbursement grant.

4. Summary

We would request that the Office of Inspector General consider these comments and adapt its report and recommendations to reflect them. Specifically, we ask you to modify your preliminary allegations of questioned costs.

Sincerely,



Brian D. Lenard
Executive Director, Program Operations