

**LEGAL SERVICES CORPORATION
OFFICE OF INSPECTOR GENERAL**

**INTERIM REPORT ON MANAGEMENT
OVERSIGHT OF GRANTEES – OFFICE
OF COMPLIANCE AND ENFORCEMENT**

Report No. AU06-02

March 2006

www.oig.lsc.gov

MEMORANDUM

TO: Helaine Barnett
President

FROM: Ronald D. Merryman
Acting Assistant Inspector General for Audit

SUBJECT: Interim Report On Management Oversight Of Grantees – Office Of
Compliance And Enforcement

DATE: March 31, 2006

Attached is our final report on the audit of OCE's oversight of grantees. Your comments on the draft of this report are included at Appendix II.

The report makes 12 recommendations concerning improvements to OCE's program operations. Because of LSC's current efforts to implement the Strategic Directions 2006 - 2010 document, the OIG considers all recommendations as closed. However, the OIG will review management's implementation of the Strategic Directions initiatives to ensure that stated actions are reasonably taken.

If you have any questions or need additional information, please contact me on extension 1663. Thank you and your staff for the cooperation and courtesy extended to the OIG auditors.

Attachment

cc: Victor Fortuno
Vice President for Legal Affairs/General Counsel/Corporate Secretary

Karen Sarjeant, Vice President
Programs, Operations and Compliance

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APPENDIX I -- Management Comment—Analysis

APPENDIX II – Management’s Response to Draft Audit Report

EXECUTIVE SUMMARY

What OIG Found

The effectiveness and efficiency of OCE operations need to be improved. OCE's on-site reviews of grantee compliance largely duplicate the compliance work conducted annually by the IPAs and overseen by the OIG. OCE has no outcome-based measures to ensure that its oversight programs are effectively and efficiently achieving organizational goals. Finally, because OCE does not have outcome-based goals, its processes and procedures may not be effectively and efficiently structured.

What OIG Recommends

The OIG recommended that OCE better define its mission and develop outcome measures based on the better-defined mission statement. The OIG also recommended that improvements be made to OCE's internal processes to improve efficiency and effectiveness of operations. The issue of duplication will be addressed in a capping report after OIG has completed reviews of other LSC entities charged with oversight of grantees.

How Management Responded

LSC stated that it is committed to the efficient and effective management of the Corporation, including the compliance work of the Office of Compliance and Enforcement. They also stated that LSC is currently engaged in a review and planning process as part of the development of Strategic Directions 2006-2010. In addition, LSC management stated that prior to receipt of the recommendations of the draft report, LSC had begun to consider many of the issues raised therein.

INTRODUCTION

In January 2005, the Office of Inspector General (OIG) announced plans to conduct an audit of the Legal Services Corporation's (LSC) oversight of grantees. The objective of this audit is to evaluate the efficiency and effectiveness of LSC's oversight program(s), including the operations of the Office of Compliance & Enforcement (OCE), the Office of Program Performance (OPP), and the Office of Information Management (OIM), as well as the role of the Office of Inspector General (OIG) and Independent Public Accountants (IPAs).

Because of the number of different program offices involved in the oversight of grantees and the length of time anticipated for each review, we are issuing interim reports as we review each office. At the conclusion of our audit, we plan to issue a capping report to address any overarching issues not specifically addressed in our reviews of each office.

BACKGROUND

Prior to 1996, compliance monitoring of grantees had been done on a cyclical basis by LSC staff. This was accomplished by on-site visits to grantee offices by teams that included attorneys, accountants and management consultants. These visits included assessments of both fiscal and regulatory compliance issues.

Section 1009(c) of the LSC Act requires each grantee to undergo an annual financial statement audit conducted in accordance with Generally Accepted Auditing Standards. Prior to 1996, these audits were conducted by Independent Public Accountants and the audited financial statements were submitted by grantees to LSC for review by LSC staff.

This changed in 1996 as a result of congressional action. In lieu of the audits required by section 1009(c) of the LSC Act, the 1996 Appropriations Act¹

¹ Section 509(a) of the 1996 appropriations act, Pub. L. 104-134, 110 Stat. 1321 (1996), provides as follows:

- An audit of each grantee receiving financial assistance from LSC shall be conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) and guidance established by OIG and shall report whether
- (1) the financial statements of the grantee present fairly its financial position and the results of its financial operations in accordance with Generally Accepted Accounting Principles (GAAP)
 - (2) the grantee has internal control systems to provide reasonable assurance that it is managing funds, regardless of source, in compliance with Federal laws and regulations and
 - (3) the grantee has complied with Federal laws and regulations applicable to funds received, regardless of source.

requires each grantee to undergo an annual audit by an IPA that includes an audit of compliance with laws and regulations. These audits are to be conducted in accordance with *Government Auditing Standards* and guidance established by the OIG.

To provide this guidance, the OIG issued the Audit Guide for Recipients and Auditors (Audit Guide).² The Audit Guide includes the Compliance Supplement for Audits of LSC Recipients (Compliance Supplement) covering 24 LSC regulations. The Compliance Supplement provides a brief summary of each regulation and details suggested audit procedures for IPAs to follow in testing grantee compliance with the regulations. Since 1996, Audit Bulletins have been issued by the OIG as needed to revise, update, and clarify previous OIG audit guidance. The 1996 Appropriations Act also clarified that the OIG is authorized to conduct on-site monitoring, audits, and inspections necessary for programmatic, financial, and compliance oversight of grantees.

OCE ceased conducting the on-site compliance assessment of grantees, and was reorganized to conduct other activities such as complaint investigations and the grantee audit follow-up program.³ Beginning in 1999, at the time of the publicized case reporting problem of some LSC grantees, OCE began conducting on-site case service reviews (CSR) of grantees. With the 2001 LSC appropriation, Congress directed LSC to hire at least seven investigators for OCE “to investigate field grantees’ compliance with the regulations grantees agreed to abide by when accepting Federal funding.”⁴ Since then, OCE has increased the size of its staff and has expanded its work to encompass the LSC regulations currently assessed on an annual basis by the IPAs.

OCE’s current staff totals 15 members, comprised of one Director, 10 attorneys, two fiscal analysts and two administrative assistants. OCE’s annual budget for FY 2004 was \$2.57 million supporting a staff of 18 individuals. OCE’s annual budget for FY 2005 was \$2.38 million supporting a staff of 16 individuals.

² The Audit Guide provides a uniform approach for audits of LSC grantees and describes grantees’ responsibilities with respect to the audit. Pursuant to Section 509(a) of the 1996 Appropriations Act, the Audit Guide sets forth that audits of grantees are to be performed in accordance with *Government Auditing Standards* issued by the Comptroller General of the U.S. The Audit Guide also requires these audits to comply with Office of Management and Budget (OMB) Circular A-133, *Audits of Institutions of Higher Education and Other Nonprofit Organizations*

³ The purpose of the grantee audit follow-up process is to ensure that findings and recommendations relating to grantee operations are effectively resolved and the corrective action is completed and reported in a timely manner.

⁴ H. Conf. Rep. 106-1005.

OBJECTIVES, SCOPE AND METHODOLOGY

Our overall objective was to determine whether OCE's oversight of grantees was effective and efficient. Specifically, we determined whether there was any duplication by OCE of responsibilities with the compliance work conducted by the IPAs.⁵ We evaluated how LSC measures the success of OCE's stated mission of reviewing grantee compliance with the LSC Act and regulations. Finally, we determined whether OCE's internal processes and procedures to review grantee compliance were efficient and effective.

To accomplish our objective, we reviewed applicable legal authorities defining the roles and responsibilities of the OIG and LSC management. We interviewed management officials and OCE staff regarding grantee compliance activities. We reviewed memoranda, internal manuals, and schedules provided by OCE and OIM, and reviewed information available electronically at the LSC and OIG websites. We also reviewed materials pertaining to LSC's oversight of grantee compliance, including OCE grantee reports (both draft and final), Audit Information Management System (AIMS) Recipient History Reports, and grantee audited financial statements. Our audit primarily focused on grantee oversight activities that potentially duplicated the work conducted by the IPAs and therefore focused only on OCE activities dealing with the routine review⁶ of grantee compliance with LSC requirements.⁷

From the OCE reports provided, we analyzed the types, frequency and significance of the findings as presented in each report. We accepted the findings as described in the reports.⁸

The audit was conducted from January 2005 through October 2005. Documents reviewed pertained to the period November 1996 through July 2005, with particular emphasis on reviews conducted by OCE during the period October 1, 2003 through December 31, 2004. Our work was conducted exclusively at LSC headquarters in Washington, DC.

⁵ As other LSC functions are reviewed, we will continually assess if any duplication of oversight exists among all offices providing oversight.

⁶ OCE considers several types of trips as compliance reviews. These trips mostly include CSR/CMS reviews, follow up visits, and trips for training grantee staff.

⁷ OCE handles a number of other responsibilities that we did not review as part of this audit. Examples of these other responsibilities include, but not limited to, responding to Congressional and White House inquiries; reviewing public complaints, approving major expenditures by recipients, and reviewing and approving recipient subgrant agreements.

⁸ Our review was limited to the findings as presented in the respective OCE report. We did not review any documentation maintained by OCE in their files supporting the finding.

The OIG performed the audit in accordance with *Government Auditing Standards* (2003 revision) established by the Comptroller General of the United States and under authority of the Inspector General Act of 1978, as amended and Public Law 108-477, incorporating by reference Public Law 104-134.

Scope Limitation. *Government Auditing Standards* require that audit work be free both in fact and appearance of any impairment to independence. If the audit work cannot be declined because of legislative requirements or other reasons, the impairment should be reported in the scope section of the audit report. The OIG has been legislatively assigned the responsibilities of providing guidance, monitoring the work, and evaluating the performance of the IPAs who annually conduct the financial, internal control, and compliance evaluations of each grantee. In addition, the legislation authorizes the OIG to conduct on-site monitoring, audits, and inspections necessary for programmatic, financial, and compliance oversight. Therefore, in accomplishing the first specific objective in this audit of evaluating whether or not OCE is performing work duplicative of the OIG's compliance oversight program, a real or perceived impairment to independence may exist and is being disclosed. However, in the opinion of the OIG, no impairment to independence exists relating to the remaining two specific objectives – OCE's measurement system and the processes and procedures used to review grantee compliance.

OVERALL EVALUATION

The effectiveness and efficiency of OCE operations need to be improved. OCE's on-site reviews of grantee compliance largely duplicate the compliance work conducted annually by the IPAs and overseen by the OIG. OCE has no outcome-based measures to ensure that its oversight programs are effectively and efficiently achieving organizational goals. Finally, because OCE does not have outcome-based goals, its processes and procedures may not be effectively and efficiently structured.

SUMMARY OF MANAGEMENT COMMENTS

While not agreeing with all recommendations, the President of LSC stated that management is committed to the efficient and effective operation of the Corporation, including the compliance work of the OCE. Also, as noted in the responses to the recommendations, LSC stated that it is currently engaged in a review and planning process as part of the development of the Strategic Directions 2006-2010. In addition, the President stated that previous to receipt of the recommendations of the draft report, LSC had begun to consider many of the issues raised in the report. LSC stated that it is continuing its review and planning process and will respond more fully to the OIG's analysis after the

capping report is complete and after LSC's planning process is complete. A complete text of management comments can be found at Appendix II.

SUMMARY OF EVALUATION OF MANAGEMENT COMMENTS.

While we do not believe that management comments address the intent of 6 of the 12 recommendations contained in this report, the goals and strategies contained in LSC's Strategic Directions 2006-2010 document should directly or indirectly address all significant recommendations in this report. On January 28, 2006, the LSC Board of Directors adopted LSC's Strategic Directions 2006-2010. This document outlines the Corporation's goals for the next five years and the strategies to be used to achieve them. As we monitor the progress of LSC's implementation of the Strategic Directions document, we will ensure that the conditions identified in this report are in fact addressed and done so in a timely and efficient manner. Therefore, we consider all recommendations contained in this report as closed. Our specific evaluation of management comments is provided after each recommendation.

In addition to comments on each recommendation, management provided additional comments in a separate section entitled "**ANALYSIS**" that addressed two areas—Authority of LSC to conduct compliance reviews and the LSC President's and Board Chairman's congressional testimony. Our evaluation of management comments for each of these areas is presented at Appendix I separate section of this report.

AUDIT RESULTS

A. DUPLICATION OF OVERSIGHT ACTIVITIES

OCE's on-site work related to grantee compliance largely duplicates the compliance work conducted annually by the IPAs. The 1996 Appropriations Act requires that the IPAs conduct annual audits of grantee compliance with applicable laws and regulations in accordance with *Government Auditing Standards* and guidance established by the OIG.⁹ The compliance work conducted by OCE during its on-site reviews covers most of the LSC regulations contained in the OIG's Compliance Supplement used by IPAs in their audit work. Because the IPAs do not review compliance with the CSR Handbook, OCE's

⁹ The applicable LSC OIG guidance in effect for audits of grantees with fiscal years ending 12/31/2004 or later is contained in the Audit Guide for Recipients and Auditors (November 1996), Compliance Supplement for Audits of LSC Recipients (December 1998), Audit Bulletin 2005-01 (December 2004), Audit Bulletin 2001-01 (March 2001), Audit Bulletin 2000-01 (February 2000), and Audit Bulletin 97-01 (November 1997). OIG audit guidance can be found at the OIG website www.oig.lsc.gov

work as it pertains to the recipients case statistic review is not duplicative of the IPAs' work.¹⁰

By having duplicative compliance review processes, both LSC and the grantees are incurring additional costs without any measurable offsetting benefit, and expending grantee staff time that likely could be used to serve more clients.

Audit Comment. Recommendations addressing duplication of oversight will be addressed in OIG's capping report once reviews of other LSC offices involved in oversight activities are complete.

B. MEASURES

We could not determine how OCE's effectiveness and efficiency in reviewing grantee regulatory compliance were measured. Specifically, outcome-based measures indicating OCE's impact on compliance were not established. In addition, a system to monitor costs associated with each visit was not developed. Measures indicating both the impact and cost of activities would help ensure that the oversight program is achieving the desired outcome at a reasonable cost, and would provide management with the information needed to make any necessary adjustments to its oversight program.

Outcome Measures. LSC has not established outcome measures. The only stated measure of the success of OCE we found in internal memoranda, budget requests, or Congressional testimony was the number of trips planned and taken. For example, the April 1, 2004 testimony submitted by the Chairman of LSC's Board and the LSC President to the House Appropriations Committee, Subcommittee on Commerce, Justice, State, the Judiciary, and Regulated Agencies states, "In 2003, OCE performed 39 on-site reviews, surpassing its goal of 32 reviews annually." No other goals for OCE were stated or quantified in the testimony or anywhere else. We could find no measures of the outcome of these visits, or whether or not grantee compliance was improving at the site visited or nationwide. We believe that this occurred partly because the relevant stated mission of OCE – "...to review recipient compliance with the LSC Act, regulations, instructions, guidelines and grant assurances"¹¹ – does not indicate any outcome. The mission statement simply requires that OCE review compliance. In our opinion, "to review" is a means to an end rather than an end in itself.

¹⁰ The OIG understands that any case file sampling to ensure adherence to the CSR Handbook will by definition include compliance testing with the LSC Act and regulations. However, the work the OIG refers to here relates to the compliance and fiscal review done by OCE outside of the case file sample.

¹¹ The LSC Website located at www.lsc.gov.

As a result, LSC management has no objective, quantifiable data on the effectiveness of OCE's on-site review process. The lack of meaningful outcome measures may have contributed to the conditions detailed later in this report.

Recommendations. The LSC President should:

Recommendation 1. Better define the mission of OCE in regard to its compliance work; and

Management Comments -- Recommendation 1. LSC management stated:

“LSC is in process of adopting Strategic Directions 2006-2010 for the Corporation. The mission and goals in that draft document clearly define expectations for each of the Corporation's offices, including OCE. When the Strategic Directions document is adopted by the LSC Board in early 2006, each office, including OCE, will be reviewing prior statements of mission, goals, and objectives to assure consistency with the Board-approved mission for the organization.”

Evaluation of Management Comments. Management comments are responsive to the finding and recommendation. Closed.

Recommendation 2. Develop an outcome based measurement system to determine whether OCE is accomplishing its mission.

Management Comments -- Recommendation 2. LSC management stated:

“Outcome measures are inherently built into the compliance reporting procedures followed by LSC programs. For instance, current measures in place are timetables, assurances and reports. Other measures under consideration in the strategic directions process include the percent of in-compliance findings from OCE visits, and the timeliness and degree of resolution of OCE corrective action notices. LSC will continue to develop these outcome measures for compliance purposes. As part of its development of Strategic Directions 2006-2010, LSC is considering a range of additional outcome measures.”

Evaluation of Management Comments. Management comments do not specifically address the recommendation. The recommendation is to develop performance measures for OCE based on OCE's new mission statement. Management comments appear to be more about performance measures for grantees, not OCE. However, the actions that will be taken as a result of implementing LSC's new Strategic Directions initiatives, which include

performance measures, should address the intent of this recommendation. Therefore, the OIG considers this recommendation closed.

Cost of On-Site Reviews. A system was not in place to track all costs associated with OCE activities related to on-site reviews. Therefore, LSC management was unable to calculate the total cost of the individual OCE visits conducted during the period of review or to assess the cost efficiency of its on-site activities.

OCE does not maintain staff timekeeping. Consequently, we were unable to determine the cost of staff and management time used to complete each on-site review from commencement to issuance of the final report. OCE staff members we spoke with were unable to provide estimates of the amount of time devoted to any specific visit.¹²

OCE does, however, track certain costs associated with each on-site review. These costs include travel, per diem, lodging, and consultant use.¹³ For each of the OCE reviews conducted during the period of review, we were able to summarize these costs. These costs ranged from a low of \$65 (for a training visit) to a high of \$46,466.

As a result, management had no method to determine the cost of each visit or have adequate data to evaluate the efficiency of operations.

Recommendation. The LSC President should:

Recommendation 3. Instruct OCE to develop a system to track all costs (including OCE staff and management time) associated with OCE activities related to on-site reviews and training.

Management Comments -- Recommendation 3. LSC management stated:

“All costs are being tracked for OCE compliance work. The total cost of OCE compliance work is available through the LSC budget process and LSC can compare the amount of compliance work done and the cost of doing such work. No business necessity exists for keeping individual time records simply to track the cost of each visit. The administrative burden of such a system is not worth the minimal value gained.”

¹² OCE staff explained that it was difficult to estimate time devoted to any one specific visit due to their uniqueness and the inherent overlap in report writing and preparation for subsequent visits.

¹³ The cost for the use of consultants includes their daily contract rate multiplied by the number of days worked plus travel, per diem and lodging.

Evaluation of Management Comments. Management comments do not address the intent of the recommendation. While total costs for all of OCE work is handled through the budget process, there is no system in place to break down the total cost of OCE by the various functions performed by OCE. As a result, management does not know the cost (including personnel costs and management costs) of the activities related to on-site reviews and training visits. We disagree that no business reason exists for keeping individual time records simply to track the cost of each visit. Without knowing the amount of time expended (personnel cost) for each visit, management can not adequately assess the economy or efficiency of headquarters' operations. Also, management has no empirical data to help assess whether one team is more efficient than another or if economies can be achieved in the cost of OCE visits based on the amount of funding a grantee receives, the size of the service area, how many cases a grantee processes, or the predominant type of service a grantee provides. Also, in order to conduct the reviews that are suggested by the Strategic Directions document, management would have to track costs, of which personnel cost is the largest single cost. Specific management actions taken will be assessed by the OIG when evaluating management's implementation of the Strategic Directions document. Therefore, the OIG considers this recommendation closed.

C. OCE PRACTICES AND PROCEDURES

Because OCE does not have outcome-based measures or a mission statement, we were unable to determine whether its processes and procedures are effectively and efficiently structured. During the course of our audit, however, we were able to identify certain OCE practices and procedures relating to its on-site compliance reviews of grantees that need to be improved.

On-Site Grantee Compliance Reviews. We found no clear indication as to the outcome OCE intends to achieve with on-site visits. The process for selecting grantees for on-site CSR/CMS review was not well defined. Sampling methods were not structured to provide a reliable assessment of the grantee's overall compliance with regulations. Finally, though called a CSR/CMS review, OCE does not report a reliable CSR error rate nor does OCE validate the grantee's self-reported CSR error rate.¹⁴

1. Selection of Grantees for On-Site Reviews. OCE's process for selecting grantees for a CSR/CMS on-site review is not well defined. In testimony submitted to Congress in April 2004, LSC stated that OCE's selection process

¹⁴ The error rate is a calculation provided by the Office of Information Management (OIM) based on the number of errors reported to LSC by the grantee during its annual self inspection process. The self inspection process requires grantees to complete a checklist for each case file selected as part of a designated number of cases sampled.

was “based on a combination of a number of criteria, including complaints of non-compliance, referrals from the Office of Inspector General, a considerable change from one year to the next in Case Service Reports, and other indications. Since 2001, LSC has also had the authority to conduct random compliance reviews.” While subject to random compliance reviews, grantees have not been selected on a random basis. Rather, OCE seemingly can arbitrarily include or exclude any grantee from a compliance review.

OCE appears to operate under a process that envisions an OCE on-site compliance visit to every LSC grantee by some future date. Nevertheless, there is no established cycle for grantee on-site compliance reviews by OCE and according to OCE management, there is no expectation to implement one. According to OCE management, grantees are selected for on-site reviews based on a number of various factors including:

- Time lapse since last visit by OCE,
- Complaints, including severity of the complaint,
- Grantee error rate reported in the CSR self-inspection.

These factors do not address the dollar amount of the grant or the number of cases reported by the grantee to LSC and do not translate into any type of comprehensive or random selection process.

OCE provided us with the rationale it used to select the grantees visited during the period covered by our review. For each grantee, OCE detailed grantee specific information on the three factors listed above. However, because the information on the three factors was so general, we asked OCE to provide us the list of grantees that satisfied these factors but were not selected for a compliance review by OCE for one reason or another. OCE was unable to provide us such a list. When asked, OCE management responded that this type of recordkeeping is not maintained.

As a result of not having a well defined and documented selection process, we were unable to determine whether OCE’s practices and procedures are efficient and effective. In addition, the lack of a defined process leaves LSC vulnerable to criticism that the selection process is subject to bias and that it is inefficient and wasteful.¹⁵

¹⁵ For example, during the period covered by our review, OCE conducted a follow-up review to one of LSC’s smallest grantees, located in Honolulu, Hawaii. This grantee, reporting only 63 closed cases for FY 2003, had originally been visited on a CSR/CMS review in April 2003. Ten months after that visit, in February 2004, OCE conducted a follow-up visit to the same grantee with two staff members for 3 days which cost \$5,027 in travel and lodging expenses alone. Six months later in August 2004, OCE conducted a CSR/CMS review of a different grantee in Honolulu, Hawaii, located only 6 city blocks from the grantee previously visited. This third visit to Hawaii consisted of seven OCE staff members and three contractors for a week and cost \$27,616 in travel and lodging expenses. Three different trips were undertaken to visit the two grantees in Hawaii, with two of these trips costing over \$32,000 in travel and lodging expenses. At the same

2. Case Sampling. OCE's current case sampling methods do not provide results that are reliable for assessing each grantee's compliance. The sampling methods appear to be structured to find evidence of noncompliance rather than assessing the level of compliance or validating the grantee's self-reported CSR error rate. Our analysis showed that the number of cases sampled varied considerably from grantee to grantee with no clear explanation provided in the report as to how the sample was selected or the bases for the size of the sample. For example, our review of the OCE reports provided revealed case sample sizes ranged from a low of 185 to a high of 1,000 cases. As explained by OCE staff, the case sampling methodology generally utilized by OCE involves the use of a random number generator, targeted sample subpopulations with expected errors, and team leader judgment.¹⁶ This does not constitute a statistically valid sample methodology; therefore the results cannot be projected against the total population of grantee cases. Furthermore, the sample may include cases from different years and as such the results may not be indicative of current practices. The errors discovered are not attributed to a specific sampling methodology and there is no attempt to statistically project the results against the universe from which the sample was selected. As a result, samples may be larger than necessary, only serve to confirm specific instances of non-compliance in areas already apparent to OCE team members, and place additional burdens on the limited staff resources of the grantee without providing any reliable data on the extent of grantee compliance.

3. CSR Error Rates and Case Service Review/Case Management System (CSR/CMS) Reviews. OCE has indicated that one of the main criteria used to select a grantee for a CSR/CMS review is the CSR error rate reported in the grantee's self-inspection. OCE, however, does not structure its review to validate the error rate. While OCE may calculate an error rate based on its case sampling as a result of their review, this information is not detailed in their reports. Even if OCE calculated the error rate and included this information in its reports, the case samples utilized are not statistically valid; thus the information cannot be relied on to determine the validity of the CSR error rate previously reported to LSC by the grantee.

Recommendations. The LSC President should instruct OCE to:

time, some of the 10 largest grantees have not been visited at all or have not received a full CSR/CMS review during the 6 years that OCE's compliance program has been in place. This situation leaves LSC open to criticism and could be avoided if OCE had a defined and efficient and effective selection process.

¹⁶ The team leader is permitted to select additional cases while on-site, thereby increasing the case sample size even more. As we understand the selection process, many of these additional cases are selected to confirm an already apparent deficiency in the grantee's case processing system.

Recommendation 4. Develop and document a selection process that ensures that grantees are reviewed over a reasonable period of time and that meets OCE's overall mission requirements;

Management Comments -- Recommendation 4. LSC management stated:

“LSC agrees that all grantees should be reviewed over a reasonable period of time. As part of its development of Strategic Directions 2006-2010, LSC is engaging in a fresh look at its selection process for program visits. Many factors are considered in the selection process and LSC is considering the relative importance of each factor in concert with LSC's clear statutory and regulatory obligations.”

Evaluation of Management Comments. Management comments are responsive to the finding and recommendation. Closed.

Recommendation 5. Develop a case sampling methodology that will efficiently and effectively permit OCE to obtain reliable data in support of its mission goal; and

Management Comments -- Recommendation 5. LSC management stated:

“The OIG recommendation with respect to case sampling is useful if LSC needs to verify a grantee's self-reported error rate. LSC will review this need and determine to what extent that is a priority. As far as reviewing cases at the grantee level, LSC affirms that, as stated by the OIG, “The sampling methods appear to be structured to find evidence of non-compliance rather than assessing the level of compliance...” In monitoring grantees, LSC seeks to determine whether or not there is non-compliance with LSC regulations, and, if so, to have it corrected. Determining the exact level of non-compliance, whether it is 2% or 3%, has little value for compliance purposes.”

Evaluation of Management Comments. Management comments are not responsive to the intent of the recommendation. Because the OCE mission is not well defined, OCE can not structure a reasonable sampling methodology to help ensure that the mission is accomplished. Once OCE redefines and clarifies its mission statement as required by the Strategic Directions document, a reasonable sampling method can then be developed. We disagree that determining the level of non-compliance has little value for compliance purposes. By knowing the level of compliance, management can take specific actions to improve the level if there is a high level of non-compliance; or, assuming a high

level of compliance, the sampling methodology may be modified and the number and length of on-site visits reduced. Specific management actions taken will be assessed by the OIG when evaluating management's implementation of the Strategic Directions document. Therefore, the OIG considers this recommendation closed.

Recommendation 6. Develop processes to assess the reliability of the CSR self-inspection error rate reported by the grantee.

Management Comments -- Recommendation 6. LSC management stated:

“LSC currently assists grantees with their self-inspections by reviewing cases, indicating where the self inspections have failed to identify errors, and working with grantees to improve their self-inspection processes. As indicated in the answer to the previous recommendation, LSC will review the usefulness of verifying a grantee's self-reported error rate.”

Evaluation of Management Comments. Management comments are responsive to the intent of the recommendation in that management stated the usefulness of verifying a grantee's self-reported error rate will be reviewed. However, we do not agree that the current process assesses or evaluates grantee's self-inspection processes. While OCE does review cases, OCE does not employ the same selection process nor assess the self-inspection process that the grantee used. Thus, OCE can not comment with any authority as to grantee's application of the self-inspection process. In the reports reviewed, we could not find any specific evaluations of the grantee self-inspection process. However, the actions that will be taken as a result of implementing LSC's new Strategic Directions document should address the intent of this recommendation. Specific management actions taken will be assessed by the OIG when evaluating management's implementation of the Strategic Directions document. Therefore, the OIG considers this recommendation closed.

Leveraging Oversight Information. Information gained through on-site visits and provided through on-site training has not been widely disseminated to all grantees. By leveraging information and sharing the information with all grantees, OCE resources can be applied in a more efficient and effective manner, and in the long run, at lower cost while at the same time improving grantee compliance nationwide.

1. Summary of Review Results. OCE has not taken action to leverage the information obtained from on site-visits to improve overall grantee compliance or to reduce costs in providing oversight. The current OCE on-site review process has been in place for approximately 6 years. However, OCE could not provide

any documented summary analysis of compliance issues detailing trends or patterns of noncompliance that may exist in the grantee population. By leveraging information and sharing the information with all grantees, OCE resources can be applied in a more efficient and effective manner, and in the long run, at lower cost while at the same time improving overall grantee compliance.

2. On-Site Training at Grantees. Providing training to grantees can increase the level of grantee compliance. However, OCE did not routinely make its training material available to all grantees or fully document the training provided. OCE was unable to provide us with agendas, syllabi and/or training materials for most training sessions conducted. However, OCE represented that the training sessions involved the LSC Act, regulations and CSR materials. Additionally, training methods not requiring on-site travel (such as video conferencing, live web casts, telephone, videotape presentations, etc.) were not developed. These methods could have reached a larger number of grantees at potentially lower cost.

During the period of review, 10 of the on-site visits conducted by OCE were for accountability training¹⁷ of grantee directors and/or staff. Normally these on-site training visits involved one to two OCE staff members, were varied in length, and were conducted at the grantee's offices. Based on the material provided by OCE, some of the training sessions would last less than four hours. Because the training presentations were not always documented, we were unable to determine whether this was an efficient and effective use of the resources, what actually was being taught at each training session; and whether there was consistency in the training presentations.

Adequately documenting training provided and making the material available to all grantees increases the value of training by ensuring consistency in what is taught and by allowing grantees to conduct their own training. Developing a strong, multifaceted training program helps ensure that necessary information reaches a broad audience in a timely manner and at a reduced cost.

Recommendations. The LSC President should instruct OCE to

Recommendation 7. Develop internal processes to summarize the grantee compliance information it gathers and provide the summary information to all grantees;

¹⁷ Accountability training as defined by OCE are on-site visits to grantees in order to train staff on compliance related issues such as: applicant intake, including eligibility, duplication, and conflicts; case acceptance; case management; case closures; and Private Attorney Involvement. Grantees who receive this training are identified through: referrals; previous training; State-wide conferences; and recommendations by OCE resulting from grantees visited.

Management Comments -- Recommendation 7. LSC management stated:

“Currently, LSC does have internal processes that it uses to summarize grantee compliance and that information is used by OCE staff in their work with grantees. As part of its development of Strategic Directions 2006-2010, LSC is considering several different approaches to training and technical assistance for grantee programs on compliance issues.”

Evaluation of Management Comments. Management comments do not address the intent of the recommendation. During the audit, we were not informed by management of internal processes utilized to summarize overall grantee compliance, nor were we provided any of the summaries. Also, management comments did not address providing summaries to all grantees so that grantees can see what concerns are being identified. Providing summaries of findings to all grantees is a proactive approach to assessing compliance issues as opposed to a reactive approach resulting from an OCE on-site visit that may occur every 7 years if at all. Being proactive will also help improve the overall level of compliance since all grantees would be able to address similar issues found at other locations long before a visit by OCE. This in turn would amplify the value of OCE’s work. However, we are not pursuing this recommendation through the resolution process because the Strategic Directions initiative of developing several different approaches to training and technical assistance should address the intent of this recommendation. Therefore, the OIG considers this recommendation closed.

Recommendation 8. Document training provided to grantees and make the information available to all grantees; and

Management Comments -- Recommendation 8. LSC management stated:

“LSC agrees that compliance training is a critical function of its responsibilities. For that reason, OCE staff currently provides and documents compliance training to grantees. As noted in the LSC response to Recommendation 7, LSC is considering several different approaches to training and technical assistance for grantee programs on compliance issues.”

Evaluation of Management Comments. Management comments are not responsive to the recommendation. The finding and recommendation is not addressing documenting that training occurred. The finding noted that the content of the training was not documented. During the audit, OCE was unable to provide us with specific agendas, syllabi and/or training material for most of the training sessions conducted. The intent of the recommendation was to require that OCE document the content of each training session and make that

training material available to all grantees. This would leverage the value of training and conceivably reduce the cost of training. Because LSC is considering several different approaches to training and technical assistance as part of the Strategic Directions initiative, this recommendation will not be pursued through a resolution process; therefore the OIG considers this recommendation as closed.

Recommendation 9. In conjunction with other offices within LSC, develop alternative training models that will be capable of serving more grantees in an efficient and effective manner.

Management Comments -- Recommendation 9. LSC management stated:

“LSC already uses training as a tool to enhance grantees ability to achieve full compliance with LSC requirements. As noted in the LSC responses to Recommendations 7 and 8, as part of its development of Strategic Directions 2006-2010, LSC is considering several additional approaches to training and technical assistance for grantee programs on compliance issues. LSC intends to continue to make substantial use of available technologies to develop different models and expand OCE’s ability to train more grantees in more efficient and effective ways.”

Evaluation of Management Comments. Management comments are responsive to the finding and recommendation. Closed.

Reporting of Results from On-Site Reviews. OCE’s current report writing process is not effective and efficient. The reports do not provide the information necessary to get a clear understanding of the significance of each finding, are cumbersome, and take too long to complete. Because of OCE’s practice of reporting all findings regardless of their significance, we were unable to discern what findings in the report LSC management considered to be significant.

1. Significance of Findings. The reports did not contain enough information to clearly understand the significance or frequency of the findings. For example, the report did not generally provide specific data regarding the number of deficiencies found versus the number of cases reviewed. Rather, the report would include subjective terms such as “many,” “several,” or “a few.” If samples were selected from multiple years, the report did not disclose whether the errors were from the current year or prior years. Thus, the report did not indicate whether the error occurred because of past practices that have now been corrected or whether current practices needed to be improved.

2. Reporting. The reports we reviewed were quite voluminous, averaging a length of 29 pages, exclusive of the attached grantee comments. The reports included both positive and negative findings, together with a description of the

respective condition. The reports provided by OCE detailed 564 findings,¹⁸ of which almost 56% (or 314) were positive findings, i.e., ones that did not identify deficiencies but instead concluded general adherence to the prescribed regulation or CSR practice. Of the remaining 250 findings that reported deficiencies, 109 (19% of total findings) related to adherence to the CSR Handbook and other matters, and 141 (25% of total findings) related to regulatory compliance. Of the 141 negative findings relating to regulatory compliance, 95 (or 67%) involved just two regulations--Financial Eligibility (45 CFR Part 1611) and Private Attorney Involvement (45 CFR Part 1614). According to OCE management, all findings are reported regardless of their overall significance. Because of this practice, the number of findings contained in each report ranged from a low of 12 to a high of 28. Rather than focusing on the areas where the grantee needed improvement, the report detailed results of the work performed by OCE. Consequently, the product appeared to be one that was documenting the work of OCE as opposed to providing the grantee with a coherent concise summary of areas needing improvement.

3. Timeliness of Reports. OCE's standard practice is to issue reports for all CSR/CMS reviews and follow-up reviews.¹⁹ Of the 20 CSR/CMS reviews conducted during our period of review, 16 final reports have been issued as of August of this year. The length of time from conclusion of the on-site visit to the date of issuance of the final report ran from 4 to 17 months, with an average time of 8.5 months. Of the seven follow-up reviews conducted during our period of review, all seven final reports had been issued.²⁰ The length of time from conclusion of the on-site follow-up visit to the date of issuance of the final report runs from one-half to eleven months, with an average time of 3.6 months. Various reasons were provided by OCE to explain the delay in the issuing the reports such as OCE workload, late receipt of comments from grantees, LSC

¹⁸ We identified the findings contained in 26 OCE reports provided to us. These reports were from the following types of visits:

- CSR / CMS Reviews – 17
- CSR / CMS Follow-up Reviews -- 7
- OPP / OCE Joint Reviews -- 2

In addition, data from 3 of the CSR/CMS reviews were taken from OCE prepared one-page summary sheets because the draft reports had not been made available.

Finally, as part of this audit, we did not review OCE's files containing supporting documentation. Our analysis is based solely on the information provided in the report or in the OCE prepared summary memorandum.

¹⁹ Conversations with OCE staff indicated that OCE attempts to maintain a time schedule for this report writing process. Each individual report is expected to be prepared within 10 days of the team member's return from the on-site review. The team report is expected to be prepared by the team leader within 30-45 days of the return of the team from the on-site review.

²⁰ We note that as defined by OCE, the follow-up reviews come about as the result of a CSR/CMS review. As we understand the process, a separate report is issued for each review.

executive management review, and the time necessary to obtain legal opinions on some findings. Timely reporting of results helps ensure that deficiencies are promptly communicated and quickly corrected.

Recommendations. The LSC President should instruct OCE to

Recommendation 10. Include in reports information that gives the reader a clear understanding of the significance and frequency of findings;

Management Comments -- Recommendation 10. LSC management stated:

“LSC will always work to improve the quality of the narrative of its reports. LSC disagrees that a 29-page report *per se* is “voluminous.” There are several different kinds of readers of the OCE reports who must have sufficient detail in the reports: grantees - to assess the evaluation; OCE – to have a record for follow up evaluation; and LSC staff – who do other types of program visits and assessments. LSC disagrees that readers of its reports are unable to determine the significance and frequency of findings. All compliance reports, where appropriate, have both “corrective actions” which require action by the grantee to cure items of non-compliance, and “recommendations” that are additional suggestions on improvements that do not rise to the level of non-compliance but are offered as best practices. LSC clearly enumerates in its reports the corrective actions that are required for a grantee to achieve compliance.”

Evaluation of Management Comments. Management comments are not responsive to the intent of the recommendation. The reports provide no perspective as to the number of times a specific type of error occurred, or how current the errors were. Thus the reader has no way of assessing the significance of a finding, nor does the reader know if the errors occurred recently or many months ago. Knowing whether an error occurred 10 times out of 40 carries a different meaning than 10 errors out of 1,000. Ten errors out of 40 cases closed over the last six months carries a different meaning than 10 errors out of 1,000 cases if all of the errors occurred 18 months ago. While we believe that providing perspective as to the frequency and currency of errors is valuable to management, it is ultimately up to management to decided on the information to include in its reports. Therefore, this recommendation will not be pursued through a resolution process and is considered closed

Recommendation 11. Develop a report writing format that is briefer by summarizing areas of substantial compliance and focusing on reporting significant issues requiring improvement by the grantee; and

Management Comments -- Recommendation 11. LSC management stated:

“As indicated in the LSC response to Recommendation 10, LSC will always work to improve the quality of the narrative of its reports. Also as indicated in the response to Recommendation 10, LSC disagrees that a 29-page report *per se* is voluminous.” The more complete explanation of compliance currently provided in the OCE reports better suits the purpose of the grantee in understanding the findings and better suits the needs of LSC in reporting compliance issues to Congress.”

Evaluation of Management Comments. Management comments are responsive to the finding and recommendation. Closed.

Recommendation 12. Develop a reporting process that will permit OCE to issue its reports in a timelier manner.

Management Comments -- Recommendation 12. LSC management stated:

“LSC agrees that it should improve the timeliness of its issuance of reports and has identified that function as an area of needed improvement in its Strategic Directions 2006-2010.”

Evaluation of Management Comments. Management comments are responsive to the finding and recommendation. Closed.

APPENDIX I

MANAGEMENT COMMENT -- ANALYSIS

In addition to comments on each recommendation, Management provided additional comments in a separate section entitled "**ANALYSIS**" that addressed two areas—authority of LSC to conduct compliance reviews and the LSC president's and Board Chairman's congressional testimony. Our evaluation of Management comments for each of these areas is presented below.

Management Comment on LSC's Authority to Conduct Compliance Reviews.

"In the draft *Interim Report*, the OIG suggests that the 1996 Appropriations Act transferred the authority for compliance oversight to the OIG. The Inspector General stated his views on the subject clearly: "Congress gave that responsibility [referring to compliance oversight] to my office and only my office. So that is not even negotiable unless Congress changes it. It basically says only the IG shall have oversight of this whole process."²¹ This is incorrect. Although the 1996 Appropriations Act authorized the OIG "to conduct on-site monitoring, audits, and inspections in accordance with Federal standards,"²² there is nothing within this Act or any subsequent Act which confers to the OIG *exclusive* jurisdiction over compliance reviews, audits, inspections or other monitoring. In addition, there is nothing within the Act or any subsequent legislation which abrogates or vitiates LSC's statutory requirement to "insure compliance."²³ "

²¹ Statements of LSC Inspector General, Kirt West, made at the February 4, 2005 LSC Operations and Regulations Committee Meeting. Transcript, page 87.

²² See Section 509(g).

²³ See, among others, the following provisions in the LSC Act:

The Corporation shall have the authority to insure the compliance of recipients and their employees with the provisions of this title and the rules, regulations, and guidelines promulgated pursuant to this title (42 U.S.C. § 2996e (b)(1)(A));

The Corporation shall insure the maintenance of the highest quality of service and professional standards, the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients (Section 1007(a)(1));

The Corporation shall insure that grant and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas (Section 1007 (a)(3)); and

“In fact, the section immediately succeeding the section in the 1996 Appropriations Act granting the OIG the authority to conduct monitoring expressly gives access to “any auditor or monitor of the Corporation” to “financial records, time records, retainer agreements, client trust fund and eligibility records, and client names.”²⁴

Also, in House Rpt. 106-1005 accompanying the Consolidated Appropriations Act 2001, it was expressly provided that:

Within the amounts provided for management and administration, the Corporation is expected to hire at least seven investigators for the Compliance and Enforcement Division to investigate field grantees' compliance with the regulations grantees agreed to abide by when accepting Federal funding.”

By mandates, LSC, through OCE, has a significant statutory responsibility for ensuring compliance of grantees. Both the facts and the law cited above run counter to the draft *Interim Report's* misstatement of the law with respect to the authority of LSC management to conduct compliance reviews. LSC recommends that the IG revise this erroneous restatement of authority found throughout the draft *Interim Report*.

We firmly believe that the current compliance work engaged in by OCE is of high quality, enables LSC to identify and correct compliance issues of grantees, is a critical function and responsibility of LSC, and is not supplanted by the Independent Public Accountants' compliance work in the audit process which is currently the responsibility of the OIG. As noted by the IG, “What we're finding out is when we go and look at how [the IPA's are] doing it, they're just not getting it. They don't understand the significance of ensuring compliance with the restrictions...”²⁵ Thus, LSC can only rely on the compliance work of OCE to meet LSC's congressionally mandated compliance oversight.”

The Corporation shall monitor and evaluate and provide for independent evaluations of programs supported in whole or in part under this title to insure that the provisions of this title and bylaws of the Corporation and applicable rules, regulations, and guidelines promulgated pursuant to this title are carried out (Section 1007 (d)).

²⁴ See Section 509(h).

²⁵ Testimony of LSC Inspector General, Kirt West, before the LSC Finance Committee on October 28, 2005. Transcript, page 35.

Evaluation of Management Comments on Authority of LSC to Conduct Compliance Reviews. Noted. As an initial matter, without getting into the substance of the issue, we disagree that the report suggests that the 1996 appropriations act transferred exclusive authority for compliance oversight to the OIG. Additionally, management's inclusion of a partial quotation of the IG's presentation at the February 2005 meeting of the Board's Operations and Regulations Committee is inappropriate: it takes the statement out of context to suggest something the IG did not in fact state. The IG's statement regarding the OIG's exclusive oversight authority with respect to compliance clearly referred to the IPA process mandated by section 509 of the 1996 appropriation act, over which Congress in fact gave the OIG exclusive authority. As to the remainder of management's comments, we neither agree nor disagree. This report does not address the authority of LSC to conduct compliance reviews. Rather, the draft report concludes that OCE's on-site work related to grantee compliance largely duplicates the compliance work conducted annually by IPAs. Because the issue of authority in conjunction with this duplication of work is not fully developed in this report, it would be inappropriate to enter into a full discussion on these issues. Therefore, the issues of authority and duplication of work will be addressed in a subsequent report.

Management Comment on LSC President and Board Chairman's Congressional Testimony

“In the draft *Interim Report*, the OIG infers that the Chairman of the LSC Board and the LSC President made false statements when they testified about the work of OCE. The draft *Interim Report* reads as follows: “In testimony submitted to Congress in April 2004, LSC stated that grantees are subject to random compliance reviews. However, OCE's selection process is not random.” The actual testimony of LSC was just the opposite. In discussing the OCE compliance review process, LSC stated: “OCE selects programs for onsite review based on a combination of a number of criteria, including complaints of non-compliance, referrals from the Office of the Inspector General, a considerable change from one year to the next in Case Services Reports, and other indications. Since 2001, LSC has also had the authority to conduct random compliance reviews.” At no time did LSC indicate that its only process for selecting grantees for compliance reviews was a random selection process and in fact, noted only that it had

the authority to conduct random reviews – not that it did random reviews.”

Evaluation of Management Comments on LSC President’s And Board Chairman’s Congressional Testimony.

The OIG did not mischaracterize the Congressional testimony. In fact, the OIG characterized the Congressional testimony as follows: “...LSC stated that grantees are subject to random compliance reviews.” By stating in the testimony “Since 2001, LSC has also had the authority to conduct random compliance reviews.,” LSC implied that grantees are in fact randomly selected from time to time. That portion of the testimony concerns OCE’s selection of grantees for review and LSC’s statement concerning randomness goes to the selection process; there would be no reason for the statement otherwise. In addition, the OIG did not suggest that LSC stated that random selection was the only LSC process. To the contrary, the OIG report includes the other factors OCE stated that it uses. The fact remains that LSC does not use a random process. Even though LSC identified other criteria in its testimony that may be used to select grantees for compliance reviews, the list of other criteria does not mitigate the misperception that may arise that each grantee has an equal probability of being selected for a compliance review.

As the finding indicates, OCE does not use a random selection process but rather, OCE can seemingly arbitrarily include or exclude any grantee from a compliance review because the process used is not well defined and documented. Thus, LSC is vulnerable to criticism that the selection process is subject to bias and that it is inefficient and wasteful. However, to address management’s concern that the LSC President’s and the Board Chairman’s congressional testimony was mischaracterized and to ensure that attention is not drawn away for the intent of the finding, we have included in the finding the full text of the relevant testimony as quoted in management comments.

LSC Management Response to Draft Audit Report. The complete text of LSC’s response to the draft audit report is incorporated in its entirety in this report as Appendix I.

APPENDIX II

MEMORANDUM

TO: Kirt West

FROM: Helaine M. Barnett

DATE: December 16, 2005

SUBJECT: LSC Management Response to OIG Draft Interim Report on Management Oversight of Grantees—Office of Compliance and Enforcement

The Office of the Inspector General (OIG) submitted to LSC management a draft *Interim Report on Management Oversight of Grantees - Office of Compliance and Enforcement* on October 14, 2005. The attached document is LSC management's response to that draft.

LSC management is committed to the efficient and effective management of the Corporation, including the compliance work of the Office of Compliance and Enforcement. As is noted in our responses to the recommendations of the draft *Interim Report*, LSC is currently engaged in a review and planning process as part of the development of Strategic Directions 2006-2010. Previous to receipt of the recommendations of the draft *Interim Report*, LSC had begun to consider many of the issues raised therein. LSC management is continuing its review and planning process and will respond more fully to your analysis after your capping report is complete and after our planning process is complete.

cc: Victor Fortuno
Charles Jeffress
Karen Sarjeant

**MANAGEMENT RESPONSE
TO THE OFFICE OF INSPECTOR GENERAL'S
DRAFT INTERIM REPORT
ON MANAGEMENT OVERSIGHT OF GRANTEES
OFFICE OF COMPLIANCE AND ENFORCEMENT**

RESPONSE TO RECOMMENDATIONS

The draft *Interim Report on Management Oversight of Grantees – Office of Compliance and Enforcement (Interim Report)*, listed twelve recommendations from the OIG to LSC Management. Detailed below are LSC Management's responses to those twelve recommendations.

Recommendation 1: Better define the mission of OCE in regard to its compliance work. LSC is in process of adopting Strategic Directions 2006-2010 for the Corporation. The mission and goals in that draft document clearly define expectations for each of the Corporation's offices, including OCE. When the Strategic Directions document is adopted by the LSC Board in early 2006, each office, including OCE, will be reviewing prior statements of mission, goals, and objectives to assure consistency with the Board-approved mission for the organization.

Recommendation 2: Develop an outcome-based measurement system to determine whether OCE is accomplishing its mission. Outcome measures are inherently built into the compliance reporting procedures followed by LSC programs. For instance, current measures in place are timetables, assurances and reports. Other measures under consideration in the strategic directions process include the percent of in-compliance findings from OCE visits, and the timeliness and degree of resolution of OCE corrective action notices. LSC will continue to develop these outcome measures for compliance purposes. As part of its development of Strategic Directions 2006-2010, LSC is considering a range of additional outcome measures.

Recommendation 3: Instruct OCE to develop a system to track all costs (including OCE staff and management time) associated with OCE activities related to on-site reviews and training. All costs are being tracked for OCE compliance work. The total cost of OCE compliance work is available through the LSC budget process and LSC can compare the amount of compliance work done and the cost of doing such work. No business necessity exists for keeping individual time records simply to track the cost of each visit. The administrative burden of such a system is not worth the minimal value gained.

Recommendation 4: Develop and document a selection process that ensures that grantees are reviewed over a reasonable period of time and that meets OCE's overall mission requirements. LSC agrees that all grantees should be reviewed over a reasonable period of time. As part of its development

of Strategic Directions 2006-2010, LSC is engaging in a fresh look at its selection process for program visits. Many factors are considered in the selection process and LSC is considering the relative importance of each factor in concert with LSC's clear statutory and regulatory obligations.

Recommendation 5: Develop a case sampling methodology that will efficiently and effectively permit OCE to obtain reliable data in support of its mission goal. The OIG recommendation with respect to case sampling is useful if LSC needs to verify a grantee's self-reported error rate. LSC will review this need and determine to what extent that is a priority. As far as reviewing cases at the grantee level, LSC affirms that, as stated by the OIG, "The sampling methods appear to be structured to find evidence of non-compliance rather than assessing the level of compliance..." In monitoring grantees, LSC seeks to determine whether or not there is non-compliance with LSC regulations, and, if so, to have it corrected. Determining the exact level of non-compliance, whether it is 2% or 3%, has little value for compliance purposes.

Recommendation 6: Develop processes to assess the reliability of the CSR self-inspection error report rate by the grantee. LSC currently assists grantees with their self-inspections by reviewing cases, indicating where the self inspections have failed to identify errors, and working with grantees to improve their self-inspection processes. As indicated in the answer to the previous recommendation, LSC will review the usefulness of verifying a grantee's self-reported error rate.

Recommendation 7: Develop internal processes to summarize the grantee compliance information it gathers and provide the summary information to all grantees. Currently, LSC does have internal processes that it uses to summarize grantee compliance and that information is used by OCE staff in their work with grantees. As part of its development of Strategic Directions 2006-2010, LSC is considering several different approaches to training and technical assistance for grantee programs on compliance issues.

Recommendation 8: Document training provided to grantees and make the information available to all grantees. LSC agrees that compliance training is a critical function of its responsibilities. For that reason, OCE staff currently provides and documents compliance training to grantees. As noted in the LSC response to Recommendation 7, LSC is considering several different approaches to training and technical assistance for grantee programs on compliance issues.

Recommendation 9: In conjunction with other offices within LSC, develop alternative training models that will be capable of serving more grantees in an efficient and effective manner. LSC already uses training as a tool to enhance grantees ability to achieve full compliance with LSC requirements. As noted in the LSC responses to Recommendations 7 and 8, as part of its development of Strategic Directions 2006-2010, LSC is considering several

additional approaches to training and technical assistance for grantee programs on compliance issues. LSC intends to continue to make substantial use of available technologies to develop different models and expand OCE's ability to train more grantees in more efficient and effective ways.

Recommendation 10: Include in reports information that gives the reader a clear understanding of the significance and frequency of findings. LSC will always work to improve the quality of the narrative of its reports. LSC disagrees that a 29-page report *per se* is "voluminous." There are several different kinds of readers of the OCE reports who must have sufficient detail in the reports: grantees - to assess the evaluation; OCE - to have a record for follow up evaluation; and LSC staff - who do other types of program visits and assessments. LSC disagrees that readers of its reports are unable to determine the significance and frequency of findings. All compliance reports, where appropriate, have both "corrective actions" which require action by the grantee to cure items of non-compliance, and "recommendations" that are additional suggestions on improvements that do not rise to the level of non-compliance but are offered as best practices. LSC clearly enumerates in its reports the corrective actions that are required for a grantee to achieve compliance.

Recommendation 11: Develop a report writing format that is briefer by summarizing areas of substantial compliance and focusing on reporting significant issues requiring improvement by the grantee. As indicated in the LSC response to Recommendation 10, LSC will always work to improve the quality of the narrative of its reports. Also as indicated in the response to Recommendation 10, LSC disagrees that a 29-page report *per se* is voluminous." The more complete explanation of compliance currently provided in the OCE reports better suits the purpose of the grantee in understanding the findings and better suits the needs of LSC in reporting compliance issues to Congress.

Recommendation 12: Develop a reporting process that will permit OCE to issue its reports in a timelier manner. LSC agrees that it should improve the timeliness of its issuance of reports and has identified that function as an area of needed improvement in its Strategic Directions 2006-2010.

ANALYSIS

LSC has reviewed the draft *Interim Report* and has determined that there are two issues for which LSC is responding at this time: 1) the OIG challenging the authority of LSC management to conduct compliance reviews; and 2) the mischaracterization of the LSC President's and Board Chairman's congressional testimony.

There are other conclusions in the report for which LSC is not now responding. This is because the issues are not yet sufficiently developed or "ripe" for response. This approach is taken because the OIG has stated that it will

develop a complete report on these critical issues and their interrelation with each other in their proposed “capping report.” Once that is done, LSC will have the opportunity to respond more fully to the entirety of the report rather than give incomplete responses to several individual, incomplete interim reports.

LSC believes that this approach is appropriate and less likely to lead to misunderstandings because not all of the facts were presented at the time of the LSC response. In support of this approach, LSC draws on the OIG’s recommendation regarding the most significant issue of duplication of compliance review processes. The draft *Interim Report* proposes: “Recommendations addressing duplication of oversight will be addressed in OIG’s capping report once reviews of other LSC offices involved in oversight activities are complete.” At another point in the draft *Interim Report*, the OIG notes “As other LSC functions are reviewed, we will continually assess if any duplication of oversight exists among all offices providing oversight.” Given the likelihood that there will be additional recommendations from the OIG, LSC is adopting the OIG’s approach by reserving LSC’s complete comments until receipt of the draft final capping report which is expected to be the audit document.

On the other hand, LSC believes that it is appropriate to address in this immediate response the two issues from the draft *Interim Report* previously noted.

LSC’s Authority to Conduct Compliance Reviews. In the draft *Interim Report*, the OIG suggests that the 1996 Appropriations Act transferred the authority for compliance oversight to the OIG. The Inspector General stated his views on the subject clearly: “Congress gave that responsibility [referring to compliance oversight] to my office and only my office. So that is not even negotiable unless Congress changes it. It basically says only the IG shall have oversight of this whole process.”²⁶ This is incorrect. Although the 1996 Appropriations Act authorized the OIG “to conduct on-site monitoring, audits, and inspections in accordance with Federal standards,”²⁷ there is nothing within this Act or any subsequent Act which confers to the OIG *exclusive* jurisdiction over compliance reviews, audits, inspections or other monitoring. In addition, there is nothing within the Act or any subsequent legislation which abrogates or vitiates LSC’s statutory requirement to “insure compliance.”²⁸

²⁶ Statements of LSC Inspector General, Kirt West, made at the February 4, 2005 LSC Operations and Regulations Committee Meeting. Transcript, page 87.

²⁷ See Section 509(g).

²⁸ See, among others, the following provisions in the LSC Act:

The Corporation shall have the authority to insure the compliance of recipients and their employees with the provisions of this title and the rules, regulations, and guidelines promulgated pursuant to this title (42 U.S.C. § 2996e (b)(1)(A));

In fact, the section immediately succeeding the section in the 1996 Appropriations Act granting the OIG the authority to conduct monitoring expressly gives access to “any auditor or monitor of the Corporation” to “financial records, time records, retainer agreements, client trust fund and eligibility records, and client names.”²⁹

Also, in House Rpt. 106-1005 accompanying the Consolidated Appropriations Act 2001, it was expressly provided that:

“Within the amounts provided for management and administration, the Corporation is expected to hire at least seven investigators for the Compliance and Enforcement Division to investigate field grantees’ compliance with the regulations grantees agreed to abide by when accepting Federal funding.”

By mandates, LSC, through OCE, has a significant statutory responsibility for ensuring compliance of grantees. Both the facts and the law cited above run counter to the draft *Interim Report’s* misstatement of the law with respect to the authority of LSC management to conduct compliance reviews. LSC recommends that the IG revise this erroneous restatement of authority found throughout the draft *Interim Report*.

We firmly believe that the current compliance work engaged in by OCE is of high quality, enables LSC to identify and correct compliance issues of grantees, is a critical function and responsibility of LSC, and is not supplanted by the Independent Public Accountants’ compliance work in the audit process which is currently the responsibility of the OIG. As noted by the IG, “What we’re finding out is when we go and look at how [the IPA’s are] doing it, they’re just not getting it. They don’t understand the significance of ensuring compliance with the

The Corporation shall insure the maintenance of the highest quality of service and professional standards, the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients (Section 1007(a)(1));

The Corporation shall insure that grant and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas (Section 1007 (a)(3)); and

The Corporation shall monitor and evaluate and provide for independent evaluations of programs supported in whole or in part under this title to insure that the provisions of this title and bylaws of the Corporation and applicable rules, regulations, and guidelines promulgated pursuant to this title are carried out (Section 1007 (d)).

²⁹ See Section 509(h).

restrictions...”³⁰ Thus, LSC can only rely on the compliance work of OCE to meet LSC’s congressionally mandated compliance oversight.

Mischaracterization of LSC President’s and Board Chairman’s Congressional Testimony. In the draft *Interim Report*, the OIG infers that the Chairman of the LSC Board and the LSC President made false statements when they testified about the work of OCE. The draft *Interim Report* reads as follows: “In testimony submitted to Congress in April 2004, LSC stated that grantees are subject to random compliance reviews. However, OCE’s selection process is not random.” The actual testimony of LSC was just the opposite. In discussing the OCE compliance review process, LSC stated: “OCE selects programs for onsite review based on a combination of a number of criteria, including complaints of non-compliance, referrals from the Office of the Inspector General, a considerable change from one year to the next in Case Services Reports, and other indications. Since 2001, LSC has also had the authority to conduct random compliance reviews.” At no time did LSC indicate that its only process for selecting grantees for compliance reviews was a random selection process and in fact, noted only that it had the authority to conduct random reviews – not that it did random reviews.

LSC management is continuing its review and planning process and will respond more fully to the OIG’s analysis after the OIG’s capping report is complete and after our planning process is complete.

Dated: December 16, 2005

³⁰ Testimony of LSC Inspector General, Kirt West, before the LSC Finance Committee on October 28, 2005. Transcript, page 35.