

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS' SEMI-ANNUAL REPORT TO THE CONGRESS

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

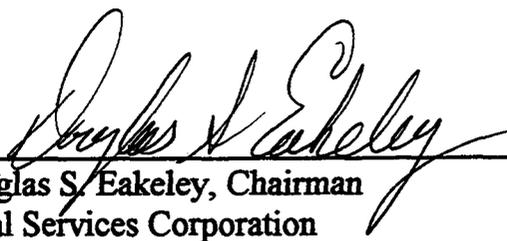
April 1, 1996 - September 30, 1996

November 30, 1996

FORWARD

I am pleased to transmit the report of the Legal Services Corporation ("LSC" or "Corporation") regarding the Semiannual Report of LSC's Office of Inspector General ("OIG") for the six-month period of April 1, 1996 through September 30, 1996.

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



Douglas S. Eakeley, Chairman
Legal Services Corporation

November 30, 1996

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MESSAGE OF THE BOARD OF DIRECTORS

Under the heading, Inspector General's Message, the Office of Inspector General's Semi-Annual Report for the period of April 1, 1996 - September 30, 1996 ("the Report") suggests that implementation of the Inspector General Act ("the Act") at the Legal Services Corporation ("LSC" or "Corporation") has not been completed because the Board of Directors, as head of the entity, raised certain questions concerning the provisions of the Act and the underlying intent of the Congress. The Inspector General has apparently misunderstood the fiduciary obligation of the Directors to assure themselves that all components of the Corporation are operated within the parameters of relevant statutory provisions.

The first specific issue raised in the Report concerns a question about the role of the Board in the formulation of an *Audit Guide*. See also page 3 of the Report. The question involved the interplay between the "guidance" role conferred on the Inspector General by § 509(a) of P.L. 104-134, which became law on April 26, 1996, and the statutory role of the Board as head of the entity under § 8G(d) of the Act.

In the past, the Board had always been the final internal authority on the content of the audit guide and, in light of its continuing role as head of the entity and as the body charged with generally supervising the Corporation's Inspector General, the Board sought to be clear on what the respective roles now are with regard to revision of the audit guide. As the Report indicates (p.3), the Board received the requested guidance, accepted it, and the issue was resolved without further Board action. The *Audit Guide* was published on October 22, 1996, in the form proposed by the Inspector General.

The next question concerned the extent of the authority of the Inspector General in personnel matters. At the recommendation of the Inspector General, management undertook to prepare a completely revised Personnel Manual. In pursuing this endeavor, it contracted with the Office of Personnel Management for assistance. (See page 6, *infra*.) When the draft Personnel Manual was presented to the Board for its consideration, several questions were raised.

There was general agreement that under Section 8G(g)(2) of the Act the Inspector General has full authority to hire and dismiss members of his office. However, questions were raised and not completely resolved concerning the extent of the Inspector General's authority over other aspects of their employment, such as wages and salaries, hours of employment, working conditions, vacations, health insurance and other benefits and terms of employment which have fiscal and legal liability implications for the Corporation, as well

as potential problems resulting from the existence of divergent personnel policies between two groups of employees that work together and make up the Corporation's relatively small work force. Discussions to resolve such matters are ongoing.

Three other sets of questions noted in the Report arose in connection with a matter which the Inspector General brought to the Board, but which is mentioned only briefly in the Report (at p. 9). In August, the Inspector General published a report titled "Increasing Legal Services Delivery Capacity Through Information Technology." Its evident purpose was to recommend policies to promote economy and efficiency in programs financed by the Corporation. The Report set forth four recommendations for increasing the ability of Corporation-funded grantees to increase the number of clients served. It recommended proof of concept evaluations to determine the extent of benefit to be derived from each.

The Inspector General reported to the Board at its September 30th meeting that he had determined to embark on a proof of concept evaluation of one, or a combination of two, of these, that he had discussed implementation with other Federal agencies as possible co-sponsors, and that he was about to sign a contract for several hundred thousands of dollars for that purpose. (The Report, at p. 9, states that "preliminary work on this project has begun.") The Board raised questions concerning the basis and nature of the contract and the funding available to pay for it.

While acknowledging the Inspector General's authority and responsibility to recommend policies and to seek economy and efficiency in the administration of LSC-funded programs, the Board raised questions concerning the basis for implementing the alternative selected by the Inspector General rather than others. Subsequently, a question has arisen as to whether the proposed evaluation project, which involves delivery of legal services to clients, is a programmatic activity which the Inspector General is barred by law from conducting. At the Board's direction, LSC management is engaged in a number of initiatives concerning the use of technology to reach unserved clients and to improve the efficiency and effectiveness of the delivery of legal services. (See p. 6, *infra*.) Efforts are continuing to obtain answers to the questions raised by the Board in its oversight capacity.

This said, let there be no doubt that the Board continues to work with its Inspector General in seeking to maintain full implementation at the Corporation of both the letter and spirit of the Inspector General Act and its amendments.

BACKGROUND

The Legal Services Corporation

The Corporation is a private, non-profit corporation established in the District of Columbia by the Legal Services Corporation Act of 1974, as amended ("the LSC Act"),¹ to provide financial support for legal assistance in non-criminal proceedings to persons unable to afford legal services. Under the LSC Act, the Corporation is governed by an eleven-member Board of Directors appointed by the President of the United States, with the advice and consent of the Senate. The Board appoints the President of the Corporation, who serves as the Corporation's chief executive officer, subject to general policies established by the Board.

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

Grant-Making Activities

To carry out the purposes of the LSC Act, Congress appropriated the Corporation \$278 million for fiscal year 1996 (Pub. L. 104-134), with which the Corporation funded 281 legal services programs to provide legal assistance to indigent persons throughout the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Micronesia.

¹ 42 U.S.C. §§ 2996 - 2996l.

MANAGEMENT INITIATIVES

During the reporting period, the Corporation focused much of its energy on two principal areas: the administration of a comprehensive competitive system for the award of grants for calendar year 1997 for the delivery of legal services to eligible clients, and the implementation of a broad array of new statutory requirements and restrictions. The Corporation also devoted its attention to additional initiatives in the areas of technology and personnel policies.

Competition

During the reporting period, the Corporation undertook the second process for awarding grants and contracts under a system of competitive bidding. Notification of the availability of funds was accomplished by publication in the *Federal Register*, newspapers and bar association journals, and by personal letters sent to governors, IOLTA directors and existing legal services providers. A revised Request for Proposals was published on June 20, 1996 with proposals due August 21, 1996. In response, 324 organizations and firms filed a Notice of Intent to Compete. Ultimately, 291 competitive applications were filed to provide legal assistance to low income persons in all 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam and Micronesia. More than one competitor is seeking funds in 36 of LSC's currently defined service areas. At this date all 291 competitive applications are being carefully reviewed pursuant to the previously adopted regulation governing competition.

Regulatory Review

To implement new restrictions contained in the legislation appropriating funds to the Corporation for fiscal year 1996, the Corporation promulgated a number of new regulations, revised others and commenced enforcement of the new restrictions. The enactment of Pub. L. 104-134 provided definitive legislative direction to the Board with regard to the requirements and restrictions imposed on LSC grantees if they are to receive LSC funds. The Board continues to give highest priority to the prompt and full implementation and enforcement of the new requirements and restrictions imposed by that legislation.

The Board had anticipated those requirements by adopting three regulations in advance of the new appropriation. All three became effective on May 1, 1996. One requires timekeeping by the Corporation's grantees, another restricts grantees' representation of individuals in certain drug-related public housing evictions and the third implements a

system of competition for the award of grants and contracts for the delivery of legal assistance to eligible clients. On July 20, 1996, the Board adopted 14 regulations, which became effective immediately upon publication as emergency, interim regulations, and approved for comment proposed revisions to a 15th regulation. The 15 regulations are as follows:

1. 45 CFR Part 1610: Use of non-LSC funds (interim²)
2. 45 CFR Part 1612: Restrictions on Lobbying and Certain Other Activities (interim)
3. 45 CFR Part 1617: Class actions (interim)
4. 45 CFR Part 1620: Priorities in Use of Resources (interim)
5. 45 CFR Part 1626: Restrictions on Legal Assistance to Aliens (interim)
6. 45 CFR Part 1627: Subgrants and Dues (interim)
7. 45 CFR Part 1632: Redistricting (interim)
8. 45 CFR Part 1633: Restriction on Representation in Certain Eviction Proceedings (interim)
9. 45 CFR Part 1636: Client Identity and Statement of Facts (interim)
10. 45 CFR Part 1637: Representation of Prisoners (interim)
11. 45 CFR Part 1638: Restriction on Solicitation (interim)
12. 45 CFR Part 1639: Welfare Reform (interim)
13. 45 CFR Part 1640: Application of Federal Law to LSC Recipients (interim)
14. 45 CFR Part 1642: Attorneys' Fees (interim)
15. 45 CFR Part 1609: Fee-generating cases (proposed).

Thereafter, on September 30, 1996, the Board of Directors adopted final versions of four of the interim rules: namely, Parts 1610, 1617, 1632 and 1633. The anticipated effective date of these four rules is January 1, 1997. The Board's Operations & Regulations

²Interim rules are authorized when there is a need for prompt guidance on how to comply with substantially revised legislative requirements and it is determined that prior notice and public comment are impracticable, unnecessary, or contrary to the public interest. See 5 U.S.C. 553(b)(3)(B) and 553 (d)(3). Although the interim rules were effective upon publication, they requested public comment for consideration by the Corporation in anticipation of publishing final rules in the near future.

Committee is expected to consider public comment on the rest of the rules on December 13 and 14, 1996, and the Board is expected to consider recommendations for final versions of these rules at its January 1997 meeting.

The OIG, as well as the interested public, worked closely with the Board and Corporation's staff on all these regulatory efforts.

Technology

Within the limits of its available financial resources, the Corporation is continuing its efforts concerning the use of technology to reach unserved clients and to improve the efficiency and effectiveness of the delivery of legal services and the management and administration of the Corporation. Current initiatives include the promotion of centralized telephone intake and delivery systems (Hotlines) by grantees and the upgrading of the Corporation's information system to facilitate reporting by grantees and efficient grant making by the Corporation.

Personnel Policies

The Corporation is also continuing its undertaking to thoroughly revise its personnel policies and procedures, with the assistance of consultants from the Office of Personnel Management ("OPM"). During this reporting period, a proposed revision of the Corporation's Personnel Manual was presented to the Board, and those parts requiring immediate implementation were approved.

TABLE 1

Management Report
on
Office of Inspector General Audits of Grantees
Issued With Questioned Costs
For the Six-Month Period Ending September 30, 1996

	Number of Reports	Questioned Costs	Unsupported Costs
A. Audit Reports for grantees on which no management decision had been made by the commencement of the reporting period.	1 ³	\$ 4,627 ⁴	\$ 0
B. Audit Reports issued during the reporting period.	0	\$ 0	\$ 0
Subtotals (A + B)	1	\$ 4,627	\$ 0
MINUS:			
C. Audit Reports for which a management decision was made during the reporting period:	1	\$ 4,627	\$ 0
(I) dollar value of the recommendations that			

³To clarify any possible confusion, it should be noted that although the OIG's previous Semi-Annual Report to Congress did not show any audit reports for which management had not reached a decision by the end of the reporting period (October 1, 1995 - March 31, 1996), there was in fact one such report. It involved a grantee in Louisiana and is as reported on this Table.

⁴The Report (of the OIG) reports this item as being \$6,557. However, that figure combines the \$4,627 that the OIG recommended be questioned and \$1,927 of additional possible questioned costs independently identified by management. (The two actually total \$6,554, instead of \$6,557.) Since this table is restricted to OIG Audits, the figure that should be reported is \$4,627, and so it is reported here.

	Number of Reports	Questioned Costs	Unsupported Costs
were agreed to by management	1	\$ 588 ⁵	\$ 0
(ii) dollar value of the recommendations that were not agreed to by management	1	\$ 4,039 ⁶	\$ 0
D. Audit Reports for which no management decision had been made by the end of the reporting period.	0	\$ 0	\$ 0
Audit Reports for which no management decision had been made within six months of issuance.	0	\$ 0	\$ 0

⁵Of the \$4,627 that the OIG Audit proposed be questioned and disallowed, after reviewing the responses and documentation submitted by the grantee, management allowed \$4,039 and disallowed \$588. The \$2,254 figure reported in the Report of the OIG includes this figure and \$1,666 in disallowed costs of the \$1,927 of additional questioned costs independently identified by management.

⁶This represents the portion of the \$4,627 questioned by the OIG Audit which, after careful review, management found to be appropriately explained and documented by the grantee at issue.

TABLE 2**Management Report on Audit Reports Issued During
the Six-Month Period Ending September 30, 1996
With Recommendations That Funds Be Put to Better Use**

	Number of Reports	Dollar Value
A. Audit Reports for which no management decision has been made by the commencement of the reporting period.	0	\$ 0
B. Audit Reports issued during the reporting period.	0	\$ 0
Subtotals (A + B)	0	\$ 0
MINUS:		
C. Audit Reports for which a management decision was made during the reporting period:	0	\$ 0
(i) dollar value of recommendations that were agreed to by management	0	\$ 0
(ii) dollar value of recommendations that were not agreed to by management	0	\$ 0
D. Audit Reports for which no management decision had been made by the end of the reporting period.	0	\$ 0
Audit Reports for which no management decision had been made within six months of issuance.	0	\$ 0