



Review of Case Statistical Reports

Grantee: Legal Services of North Texas Inc.

Recipient No. 744030

Final Report No. 00-002

December 1999

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EXECUTIVE SUMMARY

The 1998 Grant Activity Report submitted by Legal Services of North Texas (grantee) overstated the number of cases closed during the year by an estimated 3,964 cases (34 percent). The grantee

reported 11,719 closed cases but only an estimated 7,755 cases qualified to be reported as closed during 1998. Open cases were overstated by an estimated 206 cases (8 percent). The grantee reported 2,596 cases, but only an estimated 2,390 cases qualified for reporting.

The grantee did not obtain the names of 2,947 clients who were provided services through the grantee's telephone "hotline." About 74 percent of the closed case overstatement was attributable to these telephone hotline cases. Most of these clients appeared to be eligible for LSC funded legal assistance, but their names were not obtained and recorded in case files or the case management system.

There were four other causes of the overstatement of closed cases. An estimated 407 cases where the applicant was denied service, and an estimated 306 cases for clients whose income exceeded LSC guidelines, were improperly coded and reported as closed cases. The grantee did not provide legal services in these cases. An estimated 203 cases were reported as closed in 1998 even though legal activity had ceased prior to 1998 and an estimated 101 cases were duplicates, i.e., the cases were reported more than once.

Most of the open case overstatement was attributable to an estimated 118 open cases that should have been closed because the client was no longer being provided legal services. In addition, an estimated 59 open cases were duplicates and an estimated 29 open cases involved ineligible over-income clients who did not receive legal services. When the grantee corrects the untimely case closure problem, the open case reporting problems will become immaterial.

Recommendations to correct the above problems are on page 8.

BACKGROUND

Legal Services of North Texas is a nonprofit entity organized to provide legal services to indigent individuals who meet established eligibility guidelines. The grantee is headquartered in Dallas, Texas, and has a branch office in McKinney, Texas. Its staff includes approximately 30 attorneys, 5 paralegals, and 18 other staff who provide administrative support services. It maintains an extensive Private Attorney Involvement program throughout its six county service area, working closely with the county bar associations. The grantee received funding totaling approximately \$3.5 million in 1998, of which approximately \$2.2 million or 63 percent came from LSC.

The grantee prepares and submits an annual Grant Activity Report to LSC on key aspects of its workload. The report includes statistics for basic field services and Private Attorney Involvement programs financed with LSC funds, including the number of open and closed cases, types of cases, and the reasons for closing cases. For calendar year 1998, Legal Services of North Texas reported 11,719 closed cases and 2,596 open cases to LSC.

The grantee's annual closed case statistics are important workload indicators and performance measures. In contrast, the reported open cases are not a significant measure of a grantee's volume of work or productivity. Open cases are simply the cases that have not been closed as of the last day of the reporting period. These open cases will eventually be closed and reported in the Grant Activity Report. In fact, most will be reported as closed in the following year. Even though the number of open cases has limited utility as a productivity indicator, it is important that open cases be accurately reported. If the open case count is inaccurate, reporting of closed cases probably will be inaccurate. In addition, inaccurate reporting of open cases may indicate deficiencies in the underlying case management system used to produce the data for the Grant Activity Report. These deficiencies could result in the less effective management of legal services delivery.

In 1998, the grantee kept track of client cases with Kemp's Case Management System, an automated management information system. A new case management system, "Practice Manager," was being implemented at the time of our visit.

OBJECTIVES, SCOPE, AND METHODOLOGY

The primary objective of this review was to determine whether the grantee provided LSC with accurate case statistical data in its 1998 Grant Activity Report.

The Office of Inspector General performed the audit fieldwork from July 19-30, 1999 at the grantee's main office in Dallas and at the branch office in McKinney. The OIG examined the grant proposal submitted to LSC by Legal Services of North Texas for 1998 and the grantee's 1998 Grant Activity Report. The OIG reviewed client intake practices, case processing and closing procedures, and selected grantee written policies and procedures. During the on-site visit, the OIG interviewed and collected information from the grantee's president/CEO, managing attorneys, staff attorneys, paralegals, intake staff, and other support staff.

The OIG also obtained and reviewed the data in the grantee's automated case management system to determine if the case statistical data reported to LSC in the Grant Activity Report was consistent with information in client case files and in compliance with applicable LSC reporting requirements.

The OIG generated a random sample of 196 closed and open client cases for review. The sample cases were selected from the grantee's case management system. Actual overstatements of cases identified by the OIG were eliminated from the universe before making our projections to preclude double counting of errors. The sample provides 90 percent confidence that the error rate for closed cases was between 7 and 18 percent. The most probable error rate for closed cases was 12 percent. The sample provides 90 percent confidence that the error rate for open cases was between 5 and 14 percent. The most probable error rate for open cases was 8 percent.

We performed this audit in accordance with *Government Auditing Standards* (1994 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 105-277, incorporating by reference Public Law 104-134, § 509(g).

RESULTS OF AUDIT

CASE SERVICE REPORTING

The grantee's 1998 Grant Activity Report overstated the number of cases closed during the year and the number remaining open at year-end. Closed cases were overstated primarily because the grantee incorrectly reported cases for which the client's identity had not been determined. Additionally, rejected cases and other cases involving ineligible clients were incorrectly reported as closed. Overstatements also occurred because some cases were reported as closed in 1998 even though legal activity ceased in prior years. Open cases were overstated because some cases reported as open at the end of 1998 should have been closed and some cases were reported more than once.

Case Service Reporting Requirements

LSC requires recipients to submit an annual Grant Activity Report summarizing the previous year's legal services activity wholly or partially supported with LSC funds. The information in the report includes total number of cases worked on, types of legal issues, number of open and closed

cases, and the reasons cases were closed. The report also includes information on Private Attorney Involvement cases. The Case Service Reporting Handbook and Grant Activity Report instructions provide reporting criteria for cases. Reported cases must be for eligible clients and within the recipient's priorities. Eligibility is based on income and citizenship determinations and must be documented.

LSC Uses of Grant Activity Report

LSC uses grantee case statistical information to support the Corporation's annual budget request and as a performance measure in the performance plan submitted in response to the Government Performance and Results Act. The compilation of program-wide data on open and closed cases is an integral part of the management oversight process and also allows LSC management to keep its Board of Directors and the Congress informed of significant program activities and performance. In response to the annual reporting requirement, the grantee submitted the following information to LSC:

Type of Legal Problem Closed Open

Consumer/Finance	962	158
Education	34	2
Employment	310	10
Family	7,209	1,890
Juvenile	145	35
Health	46	12
Housing	1,452	203
Income Maintenance	536	143
Individual Rights	274	7
Miscellaneous	751	136
TOTALS	<u>11,719</u>	<u>2,596</u>

Examination of Reported Cases

The grantee should have reported 7,755 closed cases and 2,390 open cases in its 1998 Grant Activity Report. The following chart shows the number of overstated cases by error type.

REASON FOR OVERSTATEMENT CLOSED

Client Not Identified	2,947
Cases rejected but reported	407
Ineligible over income client	306
Untimely Closing	203
Duplicate Cases	101
TOTAL CLOSED	<u>3,964</u>

	OPEN
Untimely Closing	118
Duplicate Cases	59
Ineligible over income client	29
TOTAL OPEN	<u>206</u>
CLOSED CASES	

Clients Not Identified

The grantee did not obtain and record clients' names in the case files or case management system for 2,947 reported cases handled through the telephone hotline service. For most cases, the client's address, income, citizenship status, and legal problem code were obtained and recorded in the case files and case management system. With some exceptions, the clients appeared to be eligible for LSC funded legal assistance. However, controls were not in place to ensure that the reported cases did not include multiple calls from the same individual requesting assistance for the same problem.

The grantee disagreed with this finding and asserted that the cases were properly reported. The grantee stated that the LSC Act, implementing regulations and LSC policy directives do not require that a client's name be obtained and documented in order to count a case as a CSR activity.

According to the grantee, the hotline was to be discontinued in September 1999. A new case management system was expected to be operational at that time and the grantee planned to adopt a telephone intake system. With the new system, client names will be obtained and recorded.

A client name is a prerequisite for a reportable case. LSC guidance requires a client name for an activity to be counted as a case and that services provided to unidentified clients should not be reported as cases. We concluded that the grantee should not have reported the 2,947 cases that did not have client names.

Rejected Applicants

Documentation in four sample case files disclosed that the applicants had been rejected and were not provided legal services. However, the grantee opened and closed cases for these rejected applicants. Based on these errors, the Grant Activity Report included an estimated 407 cases for applicants who had been rejected and not provided legal services. These "cases" were improperly coded and reported as closed cases in the category "other."

The grantee discovered the erroneous reporting of rejected applicants during a review of the data prior to submission of the 1998 Grant Activity Report and during the LSC mandated self-inspection of 1998 CSR data. The grantee said that rejected applicants will no longer be reported as cases.

Ineligible Clients

The documentation in three sample closed case files indicated the clients were not income eligible for legal assistance and were not provided legal services. These cases were coded as referrals or client withdrawals and reported as closed cases. Grantee management confirmed that the three cases should not have been reported. Based on these errors, the Grant Activity Report included an estimated 306 cases for ineligible applicants whose income exceeded LSC limits and who, therefore, were not provided legal services.

Untimely Closure of Cases

The documentation in two sample case files indicated that all legal work on the cases was completed prior to 1998. Grantee management confirmed that the two cases should have been closed in earlier years. Based on these errors, an estimated 203 cases were reported as closed in 1998 even though legal activity on the cases had ceased before 1998.

Duplicate Cases

One case in our sample was closed and reported as a referral to the Private Attorney component. The same case was closed and reported when the private attorney completed work on the case. Grantee management confirmed that the sample case should not have been reported and told us that the problem was the result of an oversight. Based on these errors, an estimated 101 cases, reported as closed in 1998, were duplicate cases, i.e., cases reported as closed more than once.

OPEN CASES

The grantee's 1998 Grant Activity Report overstated open cases by an estimated 206 cases, or 8 percent. The estimate was based on finding seven errors in a sample of 85 open case files. The errors resulted from the untimely closure of cases, duplicate cases, and cases for ineligible clients. Specifically:

- **Untimely case closure** – Four sample cases should have been closed because legal activity on the cases ceased during the year. Based on these errors, an estimated 118 reported open cases should have been closed.
- **Duplicate Cases** – Two sample cases were duplicates of cases already reported by the grantee. The errors occurred because duplicate input forms were prepared for the cases. Based on these errors, an estimated 59 duplicate open cases were reported.
- **Ineligible Clients** – One sample case had been opened for a client whose income exceeded LSC limits. At the time of the audit, no legal services had been provided to the client. Based on this error, an estimated 29 cases for ineligible clients were reported.

Grantee management reviewed the seven cases with OIG staff and confirmed that the cases should not have been reported.

CONCLUSIONS

The grantee needs to improve the accuracy of its case statistics to ensure that the types of errors in the 1998 Grant Activity Report are not repeated in future reports. The major cause of reporting errors, the cases without client names, should be corrected with the proper implementation of the new case management system. The grantee must ensure that the cases without client names are not reported in the 1999 Grant Activity Report. The other errors could be eliminated with additional internal control procedures over the acceptance of cases and continuing management oversight.

RECOMMENDATIONS

The OIG recommends that grantee management:

1. Discontinue the practice of reporting "cases" where clients' names are not obtained and documented in the case files. The 1999 Grant Activity Report must not report these as "cases."
2. Implement internal control procedures to ensure that cases are not established and reported for rejected clients and ineligible clients.

3. Implement internal control procedures to ensure that cases are promptly closed when legal services are completed.
4. Implement supervisory review procedures providing for the periodic review of closed and open cases to ensure only appropriate cases are included in the case management system.

SUMMARY OF GRANTEE COMMENTS AND OIG DECISIONS

Summary of Grantee's Comments

The grantee did not agree that its 1998 CSR report overstated closed and open cases. The grantee stated that the OIG may not have used the appropriate criteria to determine reportable cases. According to the grantee, the criteria the OIG used to determine LSC eligibility went beyond the LSC Act, implementing regulations, the CSR handbooks and program letters because it held grantees responsible for knowledge of all directives and protocols LSC articulated to individual recipients. The grantee stated that it followed the established criteria and guidelines in reporting cases, and furthermore, it was not appropriate for LSC and the OIG to suggest that the grantee failed to follow CSR manuals and was in noncompliance with requirements that did not exist at the time the reports were required.

The grantee's comments are in Appendix II.

OIG's Decision

Auditors primarily used the 1993 CSR Handbook for criteria in evaluating cases. Two sections of the 1999 edition of the CSR Handbook were applicable to 1998 data: "Timely Closing of Cases" and "Management Review of Cases Service Reports." These sections were used where applicable. The OIG also applied these criteria: (1) report cases once; (2) document the client's name; and, (3) document the client's income and citizenship eligibility.

LSC management holds that client names are a prerequisite for reporting cases for CSR purposes.

The grantee's comments did not provide any basis for modifying the audit report. No evidence was provided to support the grantee's assertion that the OIG's findings were contrary to guidelines in effect for 1998 reporting.

GRANTEE'S SPECIFIC COMMENTS AND OIG DECISIONS

Grantee Comments: Clients Not Identified

The grantee stated that its telephone hotline policy was to determine eligibility in accordance with LSC regulations, CSR Handbooks (1993 and 1999 editions) and record the client's address and other identifying client information but not the client's name.

The grantee stated that a client's name is not a prerequisite for a reportable case and that LSC has never required grantees to obtain client names. Furthermore, LSC never advised the grantee that clients' names were required for telephone hotline cases to be considered LSC eligible cases. The grantee cited applicable definitions and regulations and concluded that neither the 1993 nor the 1999 CSR Handbook required the recording of a client's name as a prerequisite for a reportable case. The grantee stated that, in the absence of a requirement to obtain client names, it did not incorrectly report cases for which the client's identity had not been determined.

OIG Decision

LSC requires a client name as a prerequisite for reporting a case. In a December 2, 1999 letter responding to Legal Services of North Texas, LSC management informed the grantee that the OIG position was correct regarding the exclusion of those cases that lack a name. The grantee's comments indicated that client names were not obtained for telephone hotline cases. Therefore, the audit report correctly states that 2,947 cases without names should not have been reported.

Grantee Comments: Cases Reported More Than Once

The grantee's comments state that the criteria applicable for 1998 reporting did not require the elimination of duplicate cases from the 1998 Grant Activity Report. To support its position, the grantee cited LSC Program Letter 98-8; Center for Law and Social Policy "Regulatory Policy Memorandum No. 99-1," and LSC document "Frequently Asked CSR Questions and Answers." The grantee asserted that since LSC did not require the elimination of all duplicates from the 1998 case statistical data, the OIG should not substitute its judgment and report duplicate cases as errors.

The grantee also asserted that it was not accurate to state adequate controls were not in place to ensure reported cases without clients' names did not include duplicates. The grantee stated that hotline data could be generated to identify duplicate client information and problem codes. However, the grantee asserted that the single recording and reporting of cases was not required in 1998 CSR reports to LSC.

OIG Decision

The grantee's response did not dispute that the OIG correctly determined that the Grant Activity Report included duplicate cases. The grantee's justification for reporting duplicate cases was that LSC did not prohibit reporting them.

Program letter 98-8 stated that "...the accuracy and reliability of case statistics ... is essential." Accurate statistics cannot be compiled when the same case is reported more than once. In addition, LSC management has recently restated its position that duplicate cases should not be reported. This policy was stated to Legal Services of North Texas in a letter, dated December 2, 1999, in which LSC management informed the grantee that the OIG position was correct regarding the exclusion of duplicate cases. It is clear that LSC management's intent was that duplicate cases should be eliminated except in cases where doing so would be a substantial burden for the grantee.

The grantee's comments did not result in report changes.

Grantee Comments: Identification of Minor Errors

The grantee asserted that identifying one or two minor errors in a specific category and then projecting these errors was extremely misleading. The grantee stated that the errors identified as duplicates and over income clients did not indicate systematic problems or demonstrate a lack of internal controls.

OIG Decision

The primary objective of this audit was to determine whether the grantee provided LSC with accurate case statistical data in its 1998 Grant Activity Report. Statistically valid methods were used to formulate conclusions regarding the results of our review.

The grantee's comments did not result in any report changes.

Grantee Comments On Recommendations

The grantee submitted documentation showing that recommendations 1 through 4 had been implemented. As to recommendation 5, the grantee stated that it would resubmit its 1998 Grant Activity Report without the hotline cases provided that LSC provides written confirmation that the grantee's hotline cases should not be submitted in any revised report consistent with the OIG's recommendations.

OIG Decision

Recommendation 5 has been deleted. The calendar year is almost over and little is to be gained by correcting the 1998 Grant Activity Report. The grantee could better use its resources to ensure that the 1999 Grant Activity Report is accurate.

The other recommendations are considered resolved and closed, based on the information the grantee provided.

APPENDIX I

LIST OF FINDINGS AND ASSOCIATED RECOMMENDATIONS

Findings:

1. Closed cases were overstated (page 6)
Recommendations #1, 2, 3 and 4

2. Open cases were overstated (page 7)
Recommendations #2, 3, and 4

APPENDIX II

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Via Federal Express: Fax (202) 336-8955 & Electronic Mail @ equatrevaux@oig.lsc.gov

Mr. Edouard Quatrevaux
Inspector General
Office of Inspector General
750 First Street NE, 11th Floor
Washington, DC 20002-4250

Re: Draft Audit Case Service Report of the Office of Inspector General of Legal Services of
North Texas, Grantee No. 744030 dated September 28, 1999

Dear Mr. Quatrevaux:

This is to acknowledge receipt of the draft report of the Office of Inspector General (OIG) concerning our 1998 Case Service Reports submitted to the Legal Services Corporation (LSC). We appreciate the extension of time to provide us an opportunity to comment on the draft and will offer some additional or alternate language in the report that will be considered and accepted by OIG for inclusion in the final report that will be made public.

We first want to mention that the OIG audit team led by Anthony Ramirez conducted themselves as knowledgeable professionals whose sole focus was to assess the accuracy of the case statistical data of Legal Services of North Texas (LSNT). They did so efficiently and in a workmanlike manner. While the two week period of time diverted to accommodating the audit, not to mention the pre-audit work required, was inconvenient and time consuming to say the least, Mr. Ramirez and his team were sensitive and familiar with the daily demands of a legal services program and the team made the two weeks of examining files and data together as pleasant and cooperative as reasonably possible.

Our response will be broken into three parts: the first will be our own "Summary Comments" focusing on the major issues in contention; the second part will be "Proposed Changes in Draft

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Report" which will offer some minor changes in the draft that if acceptable which will not alter the substance or content of the report but in our opinion will bring some additional balance and fairness to the audit report and the third will be our "Response to Proposed Recommendations"

While it may be futile to spend any additional time in stating our objections and re-hashing previous arguments, it is deeply disturbing and possibly injurious that a final audit report will be issued asserting in the first page under the Executive Summary that "**...LSNT overstated the number of cases closed during the year by 3,964 cases (34 percent)**". Most readers will go no further in the report and thus not appreciating that 3,048 of those cases were reported by LSNT clearly and reasonably believing that up until the time OIG conducted the audit, were LSC eligible and reportable cases. Beginning the report in such a way leaves the reader with the clear impression that LSNT falsely or erroneously exaggerated its numbers which is clearly not the case. LSNT is in the middle of a private bar fund raising campaign with the Dallas Bar Association and the public release of an audit questioning the credibility and accuracy of the reporting of the number of people we try to serve will have serious and devastating ramifications no doubt affecting the relationship with our bar partner and the donors who support the work that we do. How will such an audit affect our own independent audit for 1999 and previous years if our own independent auditors cannot rely upon LSC materials and guidance published and disseminated?

It has been suggested by outside "advisors" to keep our response short and concise yet it is difficult to be brief when it appears that a lack of fundamental fairness could have such harmful consequences. The disallowed cases while may be numbers to many, represent 2,947 low income individuals and families in our community that met LSC eligibility guidelines at the time of reporting and received important and valuable legal assistance. Each person was assisted by an attorney whose service and assistance we take great pride in and we feel that we and they should receive the credit so deserved. Not to report their work also effects our estimated costs per case and can cause the public concern as to what LSNT does for the precious LSC funds we receive.

We have carefully reviewed the report, and LSC policies and instructions which relate directly or indirectly to how LSC recipients should report Case Service Reports (CSR) data in 1998, talked with other lawyers and the issue in our mind is clear and undisputable. In my 18 plus years of practicing law, I have encountered many complex legal issues but this is not one. I recognize that OIG has already finalized at least one CSR audit (Report No. AU99-021; Legal Services of Eastern Missouri Inc.) where it has taken the position that client' names and duplicate cases are viewed as exceptions and should be disallowed. The facts involving Legal Services of Eastern Missouri are totally different as to client's names in comparison to LSNT facts however the assertion that the single recording requirement for 1999 and **not** 1998 is the same. Just as trial or appellate courts' rulings can be overturned, and administrative agencies' decisions reversed, a wrong or incorrect holding should not go without objection. As a lawyer, I can do no less than

point out that this applying of unpublished standards or criteria retroactively is wrong by OIG and LSC should correct the confusion that has been caused.

The apparent analysis by OIG that criteria spelled out in a single letter dated May 27, 1999 by LSC **to only one grantee** in response to a specific question suggests that criteria relied upon by OIG in determining LSC eligibility goes beyond the LSC Act, implementing regulations, LSC CSR handbooks and program letters but to holding grantees responsible for knowledge as to any directives and protocols LSC articulates to individual recipients, regardless of circumstances.
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should not apply this standard and is contrary to Government Accounting Standards (GAS).

Two questions regarding 1998 CSR data and LSC eligibility or reportable cases should be raised by OIG to LSC:

1. Did LSC ever advise or instruct all LSC grantees that individual names of clients **must** be recorded in order to be reported as an LSC eligible client and reportable CSR event for 1998 case submissions?
2. Did LSC ever advise or instruct all LSC grantees that duplicate cases must be deleted and removed from recipients reported 1998 CSRs prior to their submission?

If either answer is no, then it is inappropriate OIG to declare for LSNT's CSR reports, either as exceptions or errors and report them as overstated cases. LSC still has not responded to our July 30, 1999 letter (see enclosed) asking for clarification on this issue. Therefore, LSNT has still to this date **not** been advised that client's names are needed for our 1998 or 1999 hotline cases in order to be LSC eligible cases.

In the OIG's report entitled "[Increasing Legal Services Delivery Capacity Through Information Technology](#)", the report recommended the establishment of telephone helplines. In John McKay's letter to LSC funded project directors dated March 1998, he stated that "... *One of the most promising developments in the delivery of legal services to the poor in recent years is the growth of centralized telephone-based intake and delivery systems. These systems provide prompt advice and brief services for many clients and make appropriate referrals, either within the program or externally, for clients requiring extended assistance.*". LSNT accepted both challenges and developed and implemented a telephone hotline system that **provided prompt advice**, with no additional funds from LSC or the state IOLTA foundation. Nor did LSNT cut back on the already established intake sites that were being provided. Our staff worked harder and more efficiently and this is not the way to say "Good job." More people received assistance and LSNT followed the established criteria and guidelines for LSC funded cases in good faith.

We are fully aware of the sensitive situation which LSC and OIG face in addressing Congressional concerns. However, it is not appropriate for LSC and OIG to leave the impression that LSNT failed to follow LSC CSR Manuals and were in non compliance with requirements that did not exist at the time the reports were required.

We hope that the enclosed summary, proposed changes and comments on recommendations along with the documents in support of our contentions will be re-considered and that a substantially less number of cases will be projected as being overstated. We would greatly appreciate it if you could contact us with an estimated date when the final report is to be issued

and made public. Should you have any questions or need any further information, please feel free to contact me.

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Sincerely,

JONATHAN W. VICKERY
President & Chief Executive Officer

Encls.

cc: LSNT Board of Directors, LSNT Management Committee

**Legal Services of North Texas' Summary Comments to
the 1999 Draft Case Service Report Audit
by The Office of Inspector General
on 1998 LSC Grant Submissions**

LSNT's Comment No. 1

Draft Audit Report: page 1 entire "Executive Summary"

LSNT's Response: The entire summary should be revised to reflect that because LSNT was never advised by LSC that clients' names were required for their telephone hotline cases to be considered LSC eligible and that possible duplicate cases were required to be completely eliminated prior to 1998 case submissions, LSNT mistakenly overstated the number of cases closed by a projected 3, 048 cases and by an estimated 59 open cases.

LSNT's Comment No. 2

Draft Audit Report Page 4, first paragraph.

"Closed cases were overstated primarily because the grantee incorrectly reported cases for which the client's identity had not been determined."

LSNT Response: LSNT did not incorrectly report cases for which the client's identity had not been determined. LSNT's telephone hotline policy was to determine eligibility in accordance with LSC regulations, LSC CSR handbooks 1993 edition and 1999 edition and record the client's

address and other identifying client information but not record the client's name. LSNT used and complied with existing criteria and policies in effect at the time.

The 1993 LSC CSR Handbook provided guidance as to LSC eligible clients and reportable CSR cases and guided recipients in their CSR data up until and including 1998. Under Section 1.2 "Kinds of Information Collected by the CSR"; the 1993 Handbook stated

"...The CSR collects information on : (1) clients served, (2) types of legal issues handled, (3) types of legal services provided, and (4) reasons for case closure. ... For purposes of the CSR, a client is defined as a person (or group of persons) eligible for services from an LSC funded program, **and accepted** by the program to receive legal services."

Section 3.4 in the 1993 handbook titled "Client Data" stated that there were two types of information collected on individual clients: age and racial/ethnic composition. Only two new requirements (timely closing of cases and management review of CSR reports) were made retroactive by the 1999 LSC CSR Handbook to 1998 CSR. The 99 handbook elaborated on CSR requirements and included two key definitions very pertinent to the question as to whether a client's name is essential under all circumstances in qualifying as an CSR activity.

The 1999 CSR handbook defined "case" and "client" as:

"2.1 Definition of Case For CSR purposes, a **case** is defined as the provision of permissible legal assistance to an eligible client with a legal problem, or set of closely related legal problems, accepted for assistance supported by LSC or non-LSC funds in accordance with the requirements of the LSC Act, regulations, and other applicable law. ... Legal services programs may record and report the provision of legal assistance as a **case** only if:

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- a. the client is financially and otherwise **eligible** to receive assistance under the LSC Act, regulations, and other applicable law;
- b. the client's case is within **program priorities** (or is an emergency case accepted under the program's emergency case acceptance procedures);
- c. the legal services program has actually **accepted** the client for service through its intake system or another established procedures for ensuring client eligibility;¹
- d. the type of **legal assistance** provided to the client is not prohibited by the LSC Act, regulations, or other applicable law (e.g. a class action);²
- e. the legal problem(s) of the client are not the type prohibited by the LSC Act, regulations, or other applicable law (e.g. an abortion case).²

2.2 Definition of Client For CSR purposes, a client is defined as a person (or a group of persons as defined by 45 CFR Section 1611.5(c) who is:

- a. **eligible** for legal assistance under the LSC Act, regulations, and other applicable law, regardless of source of funding; and
- b. **accepted** for assistance through an intake system or other established program procedure for ensuring client eligibility.

To be eligible for and accepted for legal assistance, a client must meet the financial (including both income and assets), citizenship (including alien status), and other eligible requirements of the LSC Act, regulations, and other applicable law.³"

Neither the 1993 nor the 1999 CSR Handbook required the recording of a client's name as a prerequisite for a reportable case. The distinguishing fact between Legal Services of Eastern Missouri cases without names and LSNT's cases is that LSNT **finished the established intake process and accepted** the case for advice and brief service only.

This is further support that LSC never informed LSC grantees or made a requirement the client's name as an essential criteria. LSC published a memorandum on December 8, 1997 from John A. Tull spelling out record keeping requirements (copy enclosed) and the only reference to recording

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the client's identity was the record keeping requirements for 45 CFR 1636.5 as to statement of facts.

As late as February 8, 1999, in a memorandum to all LSC grantees from Karen Sargent, Vice-President with LSC, Program Letter 99-1, Ms. Sargent again repeated that programs should not include the following in 1998 CSR data reported to LSC:

1. restricted case types under the LSC Act or our 1998 appropriations act, Public Law 105-119;
2. cases in which clients do not meet LSC income and asset eligibility criteria adopted pursuant to 45 CFR Part 1611;
3. referral to other providers of cases falling into categories 1 and 2 above; and
4. cases which are wholly funded with non-LSC funds.

Additionally, in Ms. Sargent's memorandum dated May 14, 1999 to all grantees informing all grantees to conduct a self-inspection and certification of case service reports for 1998 case submission, an attached procedure stated and publicized the very criteria for LSC eligibility that cases should be tested for. On page three of the procedure attachment, it spelled out the complete criteria for LSC eligibility as to what should be found in LSC eligible client's files:

"2. For each sampled case:

- a. Verify the following eligibility information is present:
 - i. Amount of household income
 - ii. Number of household members
 - iii. Amount of household assets
 - iv. Attestation of citizenship (except telephone cases)
 - v. Indication of citizenship/alien stats(telephone cases only)"

The audit draft report states on the first page that the audit was performed in accordance with *Government Auditing Standards* (GAS). Pursuant to the audit requirements of 110 Stat. 1321 (1996), LSC promulgated an Audit Guide. Seven appendices have been attached to the Audit Guide for use by recipients and auditors, which included the Compliance Supplement which provides notice to both recipients and their auditors of the specific LSC regulations which are to be tested for compliance. The Compliance Supplement changes as LSC rules, regulations and guidelines are adopted, amended or revoked, but it establishes no new rules, regulations or guidelines itself. The Audit Guide is to provide a uniform approach for audits of LSC recipients and describes recipients' responsibilities with respect to the audit. The Audit Guide is used in conjunction with the Compliance Supplement (Appendix A). To determine compliance regarding eligibility of clients, there is a section that can be found in the Appendix A: Compliance

Supplement For Audits of LSC recipients December 1998 relating to determining and testing for compliance as to section 1611 "Eligibility" of the LSC regulations. There is absolutely no requirement to document the recording of a client's name nor to verify if a recipient is recording clients' names otherwise it would be included in the compliance section of the compliance supplement.

It was only during the OIG audit that we learned of this new "essential" criteria which we were told was a result from an exchange of correspondence between LSC and Legal Services of Eastern Missouri in May of 1999 **and subsequent to 1998 CSR grant submissions**. LSNT wrote LSC in a letter dated July 30, 1999 asking for clarification as to whether in fact the non recording of a

LSC recipients dated February 10, 1999, Policy No. "99-1" (copy enclosed), Linda E. Perle and Alan W. Houseman state on page four that: "... For **1998 CSR reports**, due on March 1, 1999, programs are **not required to eliminate duplication** of cases that may appear in 1998 data, ..." . CLASP's memorandum further explained on page 7 that:

"...While these specific requirements are applicable to 1999 CSR reports, due in 2000, they are not required for 1998 reports. ..."

Moreover, the LSC publication "Frequently Asked CSR Questions & Answers", updated March 25, 1999 edition (copy of pertinent page(s) enclosed), under the Significant Changes section, it covers

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this topic directly. It included: "... New guidance on 'single- reporting' of cases" . LSC asked their question which clearly spells out the criteria expected by LSC:

"Question: We understand that the revised CSR handbook requires time closing of cases , and the 'single-reporting rule.' ..."

The only conclusion that can be drawn from that question is that the old 1993 CSR Handbook did not require grantees to eliminate potential duplicate of cases and the new 1999 CSR Handbook lays out this new requirement. OIG should not vary and develop additional criteria in which to evaluate compliance on when the new criteria has not be used by the industry nor disseminate to grantees as to a requirement. While GAS allows auditors to select criteria to be used, it must be in the audit work plan and auditors have a responsibility to use only criteria that are reasonable, attainable and relevant to the matters being audited (See Criteria 6.11 of the GAS). The decision to impose the requirement of a client's name and only a single recording of a case fails to meet any of the above and substitutes the already established critieria by the funding agency with its own. There is nothing in the LSC Act nor implementing regulation that dictates that such a standard is reasonable or relevant and many grantees without computer technology would have found it difficult to attain checking all duplicates for 1998 case submissions in a short period of time to submit 1998 CSR's.

The General Accounting Office failed to respond satisfactorily when they discounted duplicates in CSR audits they conducted. In the General Accounting Office's [letter](#) dated July 30, 1999 to Clint Lyons with the National Legal Aid and Defender Association, Norman J. Rabkin, Director, Administration of Justice Issues, responded to Mr. Lyons question raising the issue of duplicates being reported as overstated cases as follows:

"Fourth, with regard to duplicate cases, you indicate that the 1993 CSR Manual did not address the reporting of duplicate cases, and that LSC did not put out guidance on the issue until the 1999 CSR Manual. You also indicate that if a client received legal services pertaining to two different problems, it would have been appropriate for the recipient to open two separate cases for CSR purposes. In our audit, we asked case handlers to review multiple files pertaining to the same client and same problem code and to tell us whether they should be considered duplicate cases."

Verifying that there were possible duplicates does not justify them as being reported in error. Again, the criteria had already been established and the auditor seemed to select its own criteria as to measurement of accuracy and effectiveness of CSR reports without regard to the industry standard. This was clear by the lack of answer to the question. The question raised by Mr. Lyons was never answered. The GAO audit was using **new** criteria and standards not required of grantees, ever published and not relevant to the enacting Act and implementing regulations. The

admission that duplicates existed does not validate the use of duplicates as exceptions or an example of inaccurate case statistics. Assisting the same person twice in one year regarding the same or similar legal problem does not indicate or reflect fraud or inaccuracy of services delivered. It does not dispute that valuable legal help to LSC eligible clients was being offered. And in and of itself does not reflect ineffective or inefficient delivery of legal services. There are many funders of services who assess using different standards, they do not count numbers of people but count units of service or outcome measurements. If a funder desires to have unduplicated numbers reported to assess impact, then it needs to be communicated but to discount duplicates before grantees have an opportunity to examine

files and data can invalidate the desired result which is to report on the number of individual eligible clients being assisted and how.

Since LSC did not impose eliminating all duplicates from the 1998 case submissions with justification regarding grantees' automated case management systems, therefor, OIG cannot substitute their judgment as auditors and claim those cases as exceptions or overstated. This point was reiterated by the Center For Law and Social Policy's memorandum dated June 11, 1999 "99-6 from Linda E. Perle and Alan W. Houseman in which they state on page two that: "...The only provisions of the 1993 CSR Handbook that were in effect for the 1998 reports were those that required the Timely Closing of Cases (Section III-3.3) and Management Review of Case Service Reports (Section III-3.4) of the 1999 Handbook." The primary objective of the OIG CSR audit was to determine whether the grantee provided LSC with accurate case statistical data in its 1998 Grant Activity Report. LSNT did so.

LSNT Comment No. 4

Draft audit report page 6, paragraph 1.

"However, controls were not in place to ensure that the reported cases did not include multiple calls from the same individual requesting assistance for the same problem."

LSNT Response: This is not accurate since we did maintain sufficient and accurate data reflecting and recording client identifying information in the automated case management data base such as: address and zip code; race and ethnic information; number in household; age; indication of citizen or alien status; income and asset information; attorney notes on problem; source of income and previous times helped by LSNT. A copy of the hotline application which was filled out and entered into our automated case management system was provided to the audit team during the onsite visit. Hotline data could and can be generated and duplicate identifying client information and problem codes reports can be identified for assessment. However, single recording and reporting of cases was not required in 1998 grant submissions case service reports to LSC. It should not be inferred or stated that adequate controls were not in place.

LSNT Comment No. 5

Draft Audit report: Page 4, paragraph 4

"A client name is a prerequisite for a reportable case. LSC management stated that a client name is essential if an activity is to be counted as a case and that services provided to unidentified clients should not be reported as cases. We concluded that the grantee should not have reported the 2,947 cases that did not have client names."

LSNT Response: LSC management stated to whom? As stated in LSNT response number 1, a client name was not and to LSNT's knowledge, still not a prerequisite for a reportable case. LSC has

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never published or informed grantees that a client's name is a prerequisite for a reportable case. LSNT management has never made this requirement known and therefore, can not be any prerequisite as a requirement to LSC eligibility. LSNT is entitled to know the authority or specific basis that OIG is relying upon in invalidating almost 3,000 eligible LSC clients of LSNTs. LSNT should not have to learn of any such requirement after 1998 grant submissions and during an OIG CSR audit.

The LSC document titled "Frequently Asked CSR Questions & Answers" - Updated March 25, 1999 supports the proposition that LSNT's cases fall within the LSC eligibility guidelines and are CSR reportable cases. The document repeats the definition of a case and client, with no additional requirements imposed. The question the FAQ asked and answered as to intake that is not completed was whether you can count advice given when the applicant is financially eligible and otherwise eligible for assistance but the intake is not completed or accepted the case for assistance. The FAQ states:

"Advice given to eligible applicant during intake"

"No, Although the applicant may be eligible, if the intake and acceptance process is not complete, including documentation of required eligibility information, the case may not be reported in any of the CSR case closing categories."

This very same question was raised in a letter dated May 13, 1999 from Dianne Taylor, Executive Director with Eastern Missouri to LSC asking the same question where the intake process is not completed and as Ms. Taylor asked: *"Is it acceptable to record a 'counsel and advice' session (CSR case) when all other qualifying information is present, but the client will not give out his/her name?"* Apparently, John Meyer, Program Counsel III for LSC reviewed the FAQ and determined that the same facts were presented and the intake process was not completed and client uncooperative and included in his May 29, 1999 letter back to Eastern Missouri:

"Response 6 - *No. A client name is essential to count an activity as a CSR case. The situation you describe has to be recorded as a matter and not a CSR.*"

There is no further explanation or discussion about this "essential requirement" or reference as to what is the basis for such a general statement in which for the very first time, anyone from LSC stated this "essential" requirement and was only relayed to **one program where the intake process was never completed due to client's refusal to provide their names and cases never accepted**. A review of the recently published OIG CSR audit of Legal Services of Eastern Missouri spells out a totally different of circumstances regarding client's names where the LSNT designed telephone intake system obtained all LSC eligibility information spelled out above

where Legal Services of Eastern Missouri's comments stated that clients refused to provide important information and that the client's name was part of their designed intake process which often was not completed.

The FAQs that are more appropriate to LSNT's circumstances are under the sections: "**Advice given to eligible applicant at point of acceptance**" and "**Hotline assistance.**"

OIG cannot report as violation of any standards, errors, omissions, or non compliance with any criteria, policies, recommendations and the like made applicable to individual programs by LSC to

any non privy parties or grantees not informed of or advised of any such requirement. **This "essential element" was never disseminated to anyone other Eastern Missouri.** While OIG perhaps correctly determined that Legal Services of Eastern Missouri was informed of LSC's new prerequisite and thus determined those specific cases as non-reportable, OIG cannot report them as errors to any grantees that have not been informed or advised of this criteria and who also have a different set of circumstances. This is inconsistent with GAS which requires for auditors to become familiar with those laws and regulations that govern the program they are auditing. Section 6.9 a. of the GAS states "Obtaining that understanding may also be a necessary step in identifying provisions of laws and regulations significant to audit objectives." Section 6.26 of the GAS states: "*When laws, regulations, and other compliance requirements are significant to audit objectives, auditors should design the audit to provide reasonable assurance about compliance with them.*" In LSNT's draft audit report by OIG, page 4, paragraph laid out the criteria that is was evaluating LSNT 1998 CSR reports and that OIG was relying up: **The Case Service Reporting Handbook and Grant Activity Report Instructions.** It further states: "Eligibility is based on income and citizenship determinations and must be documented." Therefore, any errors or "overstatements" must be based on these standards and criteria. Those should be the standards imposed. The issue of client's names and single reporting of cases as they relate to 1998 case submissions constitute policy decisions which LSC has already established.

In the OIG CSR audit report for Legal Services of Eastern Missouri, the OIG report stated in the section under [Summary of Grantee's Comments](#) that the auditors applied other criteria including: "(1) report cases once and (2) document the client's name" however, auditors must select criteria in accordance with GAS section 6.11 and that are reasonable, attainable and relevant to the matters being audited. Examples of possible criteria include: goals prescribed by law or regulation; set by management; performance of similar entities; expert opinions and performance in the private sector.

LSC Comment No. 6

Draft Audit Report: Page 7, paragraph 3

"**Closed Cases** One case in our sample was closed and reported as a referral to the private attorney component. ... and told us that the problem was the result of an oversight. Based on these errors, an estimated 101 cases, reported as closed in 1998 were duplicates."

Draft Audit report Page 7, paragraph 6

"Open Cases Two sample cases were duplicates of cases already reported by grantee. ... Based upon these errors, an estimated 59 duplicate cases were reported."

Draft Audit Report Page 8, paragraph 1

"One sample case had been opened for a client whose income exceed LSC limits. ...no legal services had been provided to the client. Based upon these errors, an estimated 29 cases for ineligible

clients were reported."

LSNT Response: LSNT submits that identifying one or two errors in a specific category such as identifying one closed case in the sample of 111 that was a duplicate because it first came in as a staff case and was referred to PAI and then report this as evidence that another projected 101 cases were probably reported as duplicates and overstatements is extremely misleading. Where the probable error rate for closed cases was 12 percent and open cases was 8 percent, reporting single or several errors distorts LSNT's overall performance. Identifying such minor errors and projecting them for inclusion to a grand total draws from any valid findings or recommendations and exaggerate or overemphasize deficient performance. The errors identified were not systematic or demonstrating lack of internal controls but due to either good faith belief in existing criteria or inadvertent and isolated data entry errors or computer errors and should not be reported in the audit as evidence that can would affect case statistics or reasonably affect workload indicators and performance measures. At the most, they are non significant instances that should be mentioned in a separate management letter. GAS Section 7.58 of the GAS states that: **"The audit report should be fair and not misleading and should place the audit in perspective. This means presenting the audit results impartially and guarding against the tendency to exaggerate or overemphasize deficient performance."** It is further pointed out in Section 7.53 that: **"In most cases, a single example of a deficiency is not sufficient to support a broad conclusion or a related recommendation. All that it supports is that a deviation, an error, or a weakness existed."** Non-significant instances of noncompliance are more appropriately communicated in management letters as opposed to public audit reports, which in LSNT's case, would be misleading and certainly unfair considering that the major portion of alleged overstatements are due to unpublished and contradictory instructions from LSC.

Conclusion

For OIG to report any errors, omissions, inaccuracies or non compliance with LSC reporting requirements, there must be an articulated basis, a published criteria, standard or requirement in order for a grantee to have failed to comply with or adhered to.

Section 7.27 of the GAS state that: **"When auditors conclude, based on the evidence obtained, that significant noncompliance or abuse either has occurred or is likely to have occurred, they should report relevant information."** Since the stated primary cause for the alleged overstatements in LSNT's 1998 CSRs have been attributed to client's cases without names and duplicates, it is essential that the audit report relevant information as what exactly LSNT failed to comply with and why. What specific LSC policy, regulation, program letter, directive, handbook, or instruction issued by LSC has LSNT failed to adhere to as it relates to 1998 submitted case service reports? If this answer cannot be provided, then the reported overstatements should not be included in the audit report but perhaps mentioned in a management letter. Nor can the

reported alleged overstatements be attributed to lack of internal management controls which could result in inaccurate data because the reporting of the cases without names was intentional and while LSNT made an attempt to remove duplicates, we were aware that it was not required for 1998 submissions and focused management's attention on other client data accuracy issues.

**Legal Services of North Texas "Proposed Language" to
the 1999 Draft Case Service Report Audit
by The Office of Inspector General
on 1998 LSC Grant Submissions**

The language proposed is only offered if in the event OIG fails to accept LSNT's contentions that the reported 1998 hotline cases and that the duplicates should have been reported and not overstatements.

1. On page 1, the word "projected" should be used before the numbers 3,964 and 206 in the first paragraph.
2. In the second paragraph, page 1, add after hotline "...based upon their understanding of existing LSC requirements at the time these reports were made as it pertains to required documentation to qualify as an LSC eligible client and reportable case."
3. Add after system in the second paragraph, page 1, "...but other identifying client information was recorded."
4. In the third and fourth paragraphs, page 1, delete the publication of any numbers estimated where only one or two errors were identified and place them in a separate management letter or in the alternative, state after each set of numbers "...that these numbers are included for informational purpose only and are non significant in any findings or recommendations."
5. On page 4, first paragraph, add after "determined." "Grantee correctly points out that they have never been informed of this requirement and when they reported 1998 cases, believed that they were complying with LSC criteria."
6. On page 4, second paragraph, add after the last sentence. "Other criteria has been used in determining whether cases should have been reported."
7. On page 6, first paragraph, the last sentence should be modified to read: "Controls were in place to ensure that the reported cases did not include multiple requests and provision of services from the same individual requesting assistance for the same problem, however the grantee's understanding was that this screening was not necessary for 1998 grant submissions."
8. On page 6, the fourth paragraph, should be modified as follows: A client name may be prerequisite for a reportable case. The 1993 and 1999 CSR Handbook do not require the recording of a client's name as a requirement for a reportable case but LSC management have advised at least one grantee that a client's name is essential to count an activity as a CSR case. The grantee's telephone hotline intake system captured other identifying client information and labeled each application as "Hotline" so that prompt advice could be offered to eligible clients but without having to conduct conflict checks. We concluded based upon LSC's communication to another program that the grantee should not have reported the 2,947 cases that did not have client names.

9. On pages 7 and 8, reference to errors involving the discovery of 1 or 2 errors in a category, *i.e.*, "one sample case found whose income exceeded LSC limits but no legal services provided" should be removed and placed in a separate management letter to LSNT. Otherwise, language should be included as follows. "In most cases, a single example of a deficiency is not sufficient to support a broad conclusion or a related recommendation."

**Legal Services of North Texas Response to Recommendations to
the 1999 Draft Case Service Report Audit
by The Office of Inspector General
on 1998 LSC Grant Submissions**

1. Discontinue the practice of reporting "cases" where clients' names are not obtained and documented in the case files. The 1999 Grant Activity report must not report these as cases.

Response: LSNT as part of the planned stages for implementing a centralized telephone intake, advice and referral system, discontinued the practice in September 1999 when all staff attorneys while on intake were able to screen for LSC eligibility and conduct conflict checks and enter client information into the CIS at their desks while staffing the telephone intake.

2. Implement internal control procedures to ensure that cases are not established and reported for rejected clients and ineligible clients.

Response: LSNT feels that internal controls were and are in place but have taken additional steps to further focus on effective and accurate automated case management system. Please see attached letter to Elizabeth Soto-Seelig with LSC dated October 27, 1999 from LSNT for further details.

3. Implement internal control procedures to ensure that cases are promptly closed when legal services are completed.

Response: LSNT feels that internal controls were and are in place but have taken additional steps to further focus on timely closing of cases. Please see attached letter to Elizabeth Soto-Seelig with LSC dated October 27, 1999 from LSNT for further details.

4. Implement supervisory review procedures providing for the periodic review of closed and open cases to ensure only appropriate cases are included in the case management system.

Response: LSNT feels that internal controls were and are in place but have taken additional steps to further focus on the review of closed and open cases in our case management system. Please see attached letter to Elizabeth Soto-Seelig with LSC dated October 27, 1999 from LSNT for further details.

5. Submit to LSC a revised 1998 Grant Activity Report in accordance with Program letter 99-2 that accurately reports the number of cases closed during the year and the number open at the year end.

Response: LSNT feels that it attempted to submit in good faith a 1998 Grant Activity Report in accordance with Program letter 99-2 that accurately reports the number of cases closed during the year and the number open at the year end and will re-submit this

report without the hotline cases but would ask from LSC for written confirmation that in fact, LSNT's hotline cases should not be submitted in any revised report consistent with the OIG's recommendations.

ENDNOTES

¹ The point at which a case is "accepted" for service depends on the type of service provided and the process by which the program provides the service. For example, when an eligible applicant seeks advice over the telephone, "acceptance" occurs when a staff member or participating private attorney determines that the applicant qualifies for service and indicates acceptance of the case through assignment of a case number or other means of demonstrating case acceptance.

² See 45 CFR Section 1610.2 for a list of prohibited legal problems and assistance.

³ Examples of LSC eligibility requirements can be found at 45 CFR Part 1611, Eligibility, 45 CFR Part 1620, Priorities in Use of Resources, 45 CFR Part 1626, Restrictions on Legal Assistance to Aliens, and 45 CFR Part 1637, Representation of Prisoners.

APPENDIX III

OIG STAFF RESPONSIBLE FOR THE AUDIT REPORT

[Anthony M. Ramirez](#) (Auditor-in-charge)

[Abel Ortunio](#)