

**LEGAL SERVICES CORPORATION**

**OFFICE OF INSPECTOR GENERAL**

**COMPLIANCE WITH SELECTED REGULATIONS  
PERFORMANCE AUDIT**

**Grantee:** Florida Rural Legal Services, Inc.  
Recipient No. 610020

**Final Audit Report No. AU96-063C**

**September 1997**

**LEGAL SERVICES CORPORATION  
OFFICE OF INSPECTOR GENERAL  
COMPLIANCE WITH SELECTED REGULATIONS  
PERFORMANCE AUDIT  
PROJECT NO. 96-063-C**

GRANTEE: Florida Rural Legal Services, Inc. (610020)  
Lakeland, Florida

## **INTRODUCTION**

In Public Law 104-134<sup>1</sup>, the 1996 appropriation for the Legal Services Corporation (LSC), Congress imposed restrictions and prohibitions on the types of services LSC grantees may provide to clients and on the methods they may employ in providing those services. The law, enacted on April 26, 1996, required the grantees to discontinue servicing certain types of cases immediately. It also required grantees to divest of three other types of cases (class actions, prisoner litigation, and alien representation) no later than July 31, 1996. Congress required LSC to report whether grantees had divested of these cases within the time allotted.

In order to provide the LSC Board of Directors, management, and Congress with an independent assessment of the grantees' compliance with the new law, the LSC Office of Inspector General (OIG) initiated two types of limited scope audits covering 12 grantees. A performance audit tested: (1) whether the grantees had divested of the prohibited cases and were providing only those legal services permitted in restricted cases; and (2) whether the selected grantees had implemented the policies and procedures to ensure that case-related activities were within the new law. A financial related audit was designed to determine whether selected grantees were supporting prohibited or restricted activities through the grantee or alternative organizations. This report presents the results of the performance audit of Florida Rural Legal Services, Inc. (FRLS).

## **BACKGROUND**

FRLS received \$2,485,203 in Fiscal Year 1996. FRLS's main office is located in Lakeland, Florida, with six branch office locations. As of the date of field work, FRLS employed, in addition to the Executive Director, approximately 16 attorneys, 17 paralegals, and 29 other staff. In June 1996, FRLS reported 20 class action suits (one of which was a prisoner litigation case), one additional prisoner litigation suit, and approximately 1,913 alien representation cases, a total of 1,934 cases to be divested by July 31, 1996.

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<sup>1</sup> 110 Stat. 1321 (1996)

## **OBJECTIVES**

The specific objectives of the performance audit were to determine whether FRLS had:

- divested of class action, prisoner litigation, and restricted alien cases by the July 31, 1996, deadline as required by section 508(b)(2) of Public Law 104-134;
- continued representation after April 26, 1996 with respect to the prohibited and/or restricted case services in violation of the law; and
- adopted new policies and procedures to conform with the new law, and communicated those policies and procedures to its staff.

## **SCOPE**

The audit was conducted at the main office in Lakeland, Florida and two branch offices in Immokalee and Ft. Myers, Florida from December 11-13, 1996. The OIG conducted a follow-up visit from January 27-30, 1997. Audit procedures were limited to the following six regulations and the applicable interim rules in effect for 1996:

Part 1617	Class Actions
Part 1626	Alien Representation
Part 1633	Drug-related Evictions
Part 1637	Prisoner Litigation
Part 1639	Welfare Reform
Part 1636	Plaintiff Statements of Fact/Client Identity

Relevant to the stated objectives we reviewed cases and other matters existing prior and subsequent to April 26, 1996 through December 10, 1996. We did not review cases or other matters subsequent to the last date of fieldwork, except as it pertained to our follow-up of issues addressed in this report.

## **METHODOLOGY**

The OIG conducted the performance audit of FRLS in accordance with generally accepted government auditing standards. Audit procedures were limited to the following:

- conducting interviews with the Executive Director, managing attorneys and other case handlers to obtain an understanding of the policies, procedures and processes established to implement the regulatory requirements;

- examining documentation supporting grantee management's assertion on its involvement in cases and other matters related to class actions, certain categories of aliens, and certain types of representation involving incarcerated persons;
- conducting a search for restricted cases that were not reported and not divested by July 31, 1996;
- examining a sample of case files opened prior to and after April 26, 1996 to ascertain whether there was continued involvement in restricted cases;
- determining whether the recipient established policies and procedures as required by the respective regulations and communicated those policies and procedures to its staff.

## **FINDINGS, RECOMMENDATIONS AND CONCLUSIONS**

With regard to the above-stated objectives, we provide the following findings and conclusions.

### **CONCLUSION 1**

- We found no evidence that FRLS did not divest of class action, prisoner litigation, and restricted alien cases by the July 31, 1996, deadline as required by section 508(b)(2) of Public Law 104-134, except as stated below.

**FINDING 1** — Alien cases from the Lakeland office were not divested in a timely manner.

FRLS remained as attorney of record on approximately 300 alien representation cases as of the date of the audit. The grantee made provisions to transfer these cases to the Legal Aid Society of the Orange County Bar Association (Bar Association), a non-LSC funded entity, pending the Bar Association's receipt of funding and establishment of an immigration project. However, because the Bar Association did not receive its funding until September 1996 and did not staff the project until January 1997, the transfer of the cases was delayed.

Although there was no evidence that FRLS worked on these cases, FRLS did not send closing letters to clients to terminate its professional responsibility. Thus, FRLS did not withdraw from the cases in the time allowed under Public Law 104-134. Subsequent to the audit, FRLS informed LSC management that they initiated the transfer of the cases to the Bar Association.

### **RECOMMENDATION**

None.

## GRANTEE MANAGEMENT RESPONSE

FRLS agreed with the finding.

**FINDING 2** — A significant number of alien representation cases were not reported to LSC management in June 1996.

All recipients were required to report on prohibited cases subject to divestiture in June 1996, and FRLS reported approximately 1,900 alien representation cases. However, the report omitted approximately 550 cases<sup>2</sup>. The unreported cases were attributed to an inadequate case management system, with a 2-year backlog of cases that had not been entered into the system. Although the cases were unreported, there was no evidence that FRLS worked on the cases after July 31, 1996. Some of the cases had already been closed, but approximately 190 cases (35%) had yet to be divested. After the completion of the field work, FRLS submitted to LSC management a second report that included the previously unreported cases.

## RECOMMENDATION

LSC management should ensure that FRLS implements adequate controls over case management to ensure the reliability of statistical case information reports.

## GRANTEE MANAGEMENT RESPONSE

FRLS agreed with the finding. FRLS stated that it was in the process of implementing a new computerized case management system, then operational in the Lakeland office. Under the new system, cases were to be entered into the computerized case management system at intake.

**FINDING 3** — In two class action suits, motions for substitute counsel were pending before the courts and had not been granted at the time of the audit.

FRLS transferred the two cases to private attorneys and the program was not otherwise involved in litigation. However, the court officially had not yet allowed FRLS to withdraw as counsel.

## RECOMMENDATION

None.

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<sup>2</sup>Subsequent to the completion of the audit, FRLS informed LSC management that there were 542 cases omitted from the June 1996 report.

## GRANTEE MANAGEMENT RESPONSE

FRLS agreed with the finding.

### CONCLUSION 2

- We found no evidence that FRLS continued representation after April 26, 1996 with respect to the prohibited and/or restricted case services in violation of the law.

### CONCLUSION 3

- FRLS established policies and procedures as required by the respective regulations and communicated those policies and procedures to its staff.

## GRANTEE MANAGEMENT COMMENTS TO THE DRAFT AUDIT REPORTS

FRLS' comments to each finding have been included in the discussion of that finding. The complete text of FRLS' responses to the first and second draft audit reports are included as Appendix I and II, respectively.

## MANAGEMENT LETTER

We have issued a separate letter to FRLS management concerning an immaterial finding resulting from this audit.



LAW OFFICES  
**Florida Rural  
Legal Services, Inc.**

REPLY TO: Lakeland

March 13, 1997

William M. Moyette, III  
PRESIDENT, BOARD OF DIRECTORS

Peter F. Helwig  
EXECUTIVE DIRECTOR

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VIA FACSIMILE

Albert B. Puglia  
Acting Assistant Inspector General  
for Program Integrity  
Office of the Inspector General  
Legal Services Corporation  
750 First Street, N.E., 10th Floor  
Washington, D.C. 20002 4250

Re. Audit Projects 96-063 and 96-064

Dear Mr. Puglia:

Thank you for providing us with copies of the draft audit reports covering the above two projects.

We have reviewed the draft reports and generally concur with the findings therein. I write only to advise you of corrective measures we have taken, with regard to your Recommendation which follows Finding 2 of the report on Project 96-063.

As described in my letter of February 17, 1996 to John Tull, copied to Ms. Charmaine Romuar of your office, we are installing a new computerized case management system which will eliminate the problems described in Finding 2. The new system is now operational in our Lakeland office, and will be implemented in our other offices shortly. Under this system, it will no longer be possible for an attorney to do an intake without entering the case into the case management system, and backlogs will be eliminated because the data will be entered automatically at the time of intake.

Thank you for the time, attention and courtesy of your team in their two visits to our program.

Sincerely,  
  
Peter F. Helwig



# Florida Rural Legal Services Inc.

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September 19, 1997

Alexis M. Stowe  
Assistant Inspector General for Audit  
Legal Services Corporation  
750 First Street, NE, 10th Floor  
Washington, D.C. 20002-4250

SEP 29 1997

Re: Audit Project 96-064 (Financial Related Audit)

Dear Ms. Stowe:

Thank you for giving us the opportunity to comment on the second draft of your reports on our performance audit and financial related audit. With the exception of the comment herein regarding the Management Letter accompanying the financial related audit, we have no disagreement with regard to either report.

In the Management Letter accompanying the financial related audit, it was recommended that we change our personnel policies to disallow the accrual of employee fringe benefits while employees are on uncompensated administrative leave, except as required by law. We believe that this recommendation is unwarranted, as more fully set out below.

The factual setting which gave rise to this recommendation is as follows: During 1996-97, two of our full-time paralegal employees took uncompensated annual leave, on a small number of occasions, and performed work for another employer. That work consisted, in one case, of paid employment to translate for a non-LSC legal aid program which was providing legal assistance to immigrants. In the other case, it consisted of paid employment for a private law firm, to assist on a pending class action lawsuit.

In both cases, the work which was done would have been impermissible if done by the workers in the course of their employment with us. In both cases, the workers' FRLS paychecks were reduced by the amount of administrative leave which they took in order to do this other work for the outside organizations. In neither case was the work done in our offices.

As you note in the management letter, our personnel policies provide that employees continue to accrue full fringe benefits while on administrative leave. This

Alexis M. Stowe  
September 23, 1997

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policy is found in our collective bargaining agreement, and has been in effect for many years. It has been consistently and neutrally applied, regardless of the purpose for which the employee was taking administrative leave.

It would be impractical and inequitable to adopt the policy recommended in the management letter. Especially in the case of health insurance benefits, it has never been our practice, nor should it be, to stop and start coverage depending on whether an otherwise full-time employee falls below 30 hours in a given week. This does occur on occasion, as employees run out of sick leave or decide to extend vacation or other leave without pay. When an employee exhausts her accrued leave because of an illness, unpaid administrative leave would have to be utilized if she become ill again shortly thereafter. Terminating her health benefits in such a case would not only be poor management policy, it would be cruel and possibly dangerous. Finally, staff sometimes take leave which is their legal right under the Family and Medical Leave Act. As your recommendation anticipates, continuation of health insurance is a legal requirement in that situation.

The only policy which makes practical sense, and is consistent with institutional integrity, is a policy which is uniformly applied, and is neutral as to the purpose for which the leave is taken. In our view, it is not our business how a staff member spends her vacation, medical leave or administrative leave, so long as she does not act in the name of FRI.S. We are not about to, nor do the restrictions require that we monitor the off-work behavior of our staff, or scrutinize their church and other community activities to see if some LSC-ineligible immigrant benefits from them.

We can imagine some situations in which the accrual of benefits would be a legitimate concern. For example, if benefits accrued during leave for LSC-ineligible activities, but not for other activities; or if a policy were on its face neutral, but was adopted recently in response to the new restrictions; these might well suggest some minimal support for restricted activities with LSC funds.

However, neither situation is presented here. Our policy is that benefits accrue during any administrative leave. It is applied consistently and without regard to the purpose for which leave is taken. It is a policy of long standing at FRI.S, and was not adopted in order to evade the new restrictions. Moreover, it furthers the legitimate purpose of simplicity and consistency of administration, as such a policy is legally required in some cases. I hope you will reconsider your position on this issue and allow us to continue this policy.

Sincerely,  
  
Peter F. Helwig