

**LEGAL SERVICES CORPORATION
OFFICE OF INSPECTOR GENERAL**

REVIEW OF CASE STATISTICAL REPORTS

**Grantee: Monroe County Legal Assistance Corporation
Recipient No. 233130**

**AU99-019
September 1999**

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EXECUTIVE SUMMARY

The 1998 Grant Activity Report submitted by Monroe County Legal Assistance Corporation (grantee) overstated the number of cases closed during the year and open at year-end. The grantee reported 6,684 closed cases but only an estimated 4,104 cases qualified to be reported as closed during 1998. Therefore, the reported closed cases were overstated by 39 percent. A total of 4,953 cases were reported as open, but the grantee had an estimated 2,607 open cases at year-end, a 47 percent overstatement.

There were two primary causes of the overstatement of closed cases. First, the grantee incorrectly reported 1,410 cases processed by the Community Legal Intake and Referral Project, a centralized intake and referral service for all civil legal service providers in Monroe County. Second, an estimated 868 cases were reported as closed in 1998 even though legal activity had ceased prior to 1998. In addition, an estimated 302 cases were overstated because: cases where clients' income exceeded LSC eligibility requirements were reported, some cases not funded by LSC were reported, no legal services were provided for some cases, there was no support for some cases in the grantee's automated information system and some cases were duplicates.

Open cases at year-end were overstated for several reasons. The grantee's branch office reported incorrectly 1,227 cases in which the potential clients had been rejected and did not receive any legal services. An estimated 883 open cases should have been closed because legal activity had ceased. Most of these cases should have been closed in 1997 or earlier. A review of sample cases indicated that 163 case files could not be located and therefore should not have been reported. There was no support for 66 cases in the grantee's automated information systems and 7 additional cases were duplicates.

Two other issues, not directly related to case counting, were disclosed during our review. Citizenship eligibility determinations were not documented in 31 of 170 sample case files reviewed. In addition, five case files did not include income eligibility determinations. This problem primarily occurred with cases handled by the grantee's two sub-grantees.

Recommendations to correct the above problems are on page 9.

BACKGROUND

Monroe County Legal Assistance Corporation is a nonprofit New York entity organized to provide legal services to indigent individuals who meet established eligibility guidelines. Its priorities include housing, income maintenance, family, and consumer issues. The grantee is headquartered in Rochester, New York and has a branch office in Geneva County. Its staff included approximately 15 attorneys, 8 paralegals, and 9 other staff who provided computer, accounting, and administrative support services. In 1998, the grantee received funding totaling about \$1.7 million. About 51 percent or \$840,000 came from LSC. The grantee gave sub-grants of \$53,300 to Volunteer Legal Services Project and \$84,000 to Oak Orchard Legal Services.

In 1998, the grantee paid the Community Legal Intake and Referral Project (CLIRP) \$18,000 for providing client intake and referral services. CLIRP provided a centralized switchboard service (two receptionists) for the grantee and two other legal service providers and a centralized intake and referral service for all civil legal service providers in Monroe County. The CLIRP receptionists forwarded calls to the appropriate legal service provider when the caller knew whom they had to reach. All other calls were sent to CLIRP intake staff who screened the calls to ascertain which, if any, legal service provider in Monroe County would be recommended to the caller.

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, Monroe County Legal Assistance Corporation reported 4,953 open cases and 6,684 closed cases to LSC.

The grantee's annual closed case statistics are its primary 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, future reporting of closed cases, in all probability, also 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.

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 this review from April 5-16, 1999, at the grantee's main office, branch office, and the offices of both sub-grantees. The OIG examined the grant proposal submitted to LSC by Monroe County Legal Assistance Corporation for 1998 and the grantee's 1998 Grant Activity Report. During the on-site visit, the OIG interviewed and collected information from the grantee's executive director, managing attorneys, staff attorneys, paralegals, intake staff, information system specialist, and other support staff.

The OIG also obtained and reviewed the data in the grantee's automated case management systems 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 170 closed and open client cases for detailed review. The sample cases were selected from the grantee's case management systems. The OIG is 90 percent confident that the error rate for closed cases was between 14 and 26 percent. The most probable error rate for closed cases was 20 percent. The OIG is 90 percent confident that the error rate for open cases was between 35 percent and 51 percent. The most probable error rate for open cases was 43 percent. We projected the results of our review of the sample to estimate the number of cases that should not have been reported. Actual overstatements were eliminated from the universe before making our projections to preclude double counting of errors.

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 105-119, incorporated 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 because the grantee incorrectly reported cases handled by CLIRP, a centralized intake and referral service for all civil legal service providers in Monroe County. Additional overstatements occurred because cases were reported as closed in 1998 but legal activity had ceased in prior years. Open cases were overstated because cases that had been rejected by the grantee were reported to the LSC. Additional overstatements occurred because cases reported as open at the end of 1998 should have been closed in prior years.

The accuracy of the Grant Activity Report was also affected by: missing case files; lack of support in the information systems; duplicate cases; cases where clients' income exceeded the eligibility standards prescribed by LSC; cases not funded by LSC; and cases in which no legal service was provided.

Case Service Reporting Requirements

LSC requires grant 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	Open	Closed
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Consumer/Finance	445	1,002
Education	12	8
Employment	12	63
Family	1,261	1,641
Juvenile	5	23
Health	183	365
Housing	1,505	1,339
Income Maintenance	1,264	1,785
Individual Rights	56	38
Miscellaneous	210	420

TOTALS	<u>4,953</u>	<u>6,684</u>
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Examination of Reported Cases

The grantee should have reported 4,104 closed cases and 2,607 open cases in its 1998 Grant Activity Report. The following chart provides the details of the overstatements.

REASON FOR OVERSTATEMENT	CLOSED
CLIRP CASES	1,410
UNTIMELY CLOSING	868
OVER INCOME	116
NON-LSC CASES	58
NO LEGAL SERVICES	58
UNSUPPORTED CASES	42
DUPLICATE CASES	28
<u>TOTAL CLOSED</u>	2,580
	OPEN
REJECTED APPLICANTS	1,227
UNTIMELY CLOSING	883
MISSING CASE FILES	163
UNSUPPORTED CASES	66
DUPLICATE CASES	7
TOTAL OPEN	2,346

CLOSED CASES

CLIRP Cases

The grantee improperly reported 1,410 closed cases that the Community Legal Intake and Referral Project (CLIRP) processed. The grantee provided \$18,000, or

about 18.7 percent of CLIRP's 1998 funding. CLIRP reported to the grantee that it closed 7,545 cases in 1998. The grantee's Grant Activity Report included 1,410 (18.7 percent x 7,545) of the cases CLIRP reported as closed.

For several reasons, the 1,410 cases should not have been reported in the 1998 Grant Activity Report. The number of cases reported was not supported by a list of specific cases. The grantee had no assurance that the clients were eligible for assistance because the grantee did not have controls to ensure that cases processed by CLIRP met LSC eligibility regulations. There was no formal agreement between the grantee and CLIRP requiring CLIRP to adhere to laws and LSC regulations. Further, CLIRP reported closing 7,545 cases including 5,144 (68 percent) that were classified as "Referred after Legal Assessment." CLIRP's intake staff screened these calls and then referred callers to the appropriate provider of legal services. No legal assessment was made regarding these 5,144 cases. Therefore, 68 percent of the CLIRP cases claimed by the grantee were classified as "Referred after Legal Assessment" even though the cases did not involve the provision of legal services.

Untimely Closure of Cases

The OIG estimated that 868 cases were incorrectly reported as closed in 1998 because legal activity on the cases had ceased before 1998. We reviewed 95 closed cases and determined that 15 should have been closed in years prior to 1998.

Other Problems with Closed Case Counts

The incorrect reporting of CLIRP cases and cases on which legal services ceased prior to 1998 were the causes of the two largest closed case errors in the Grant Activity Report. However, other overstatements of closed cases also occurred. Auditors estimated that an additional 302 closed cases should not have been reported in five additional categories of errors.

- The Grant Activity Report included an estimated 116 cases where client incomes exceeded allowable amounts. Grantees may use LSC funds to service clients whose annual income level does not exceed 125 percent of the amount set forth in the Federal Poverty Income Guidelines. In some circumstances an individual whose income is between 125 and 187.5 percent of the poverty guidelines may be provided legal assistance. Review of the documentation in two sampled case files disclosed that client incomes exceeded the amounts allowed.
- The Grant Activity Report included an estimated 58 cases that were not funded by the LSC in whole or in part. Review of the documentation in the case files sampled disclosed that one case was fully funded by another organization.
- The Grant Activity Report included an estimated 58 cases where no legal services were provided. Review of the documentation in the case files sampled found that one case did not involve the provision of legal services.

- The Grant Activity Report included 42 cases more than the total number stated in the grantee's detailed listings of closed cases generated from the grantee's automated information systems. These 42 cases were not supported and should not have been reported to LSC.
- Auditors identified 28 cases that were duplicates, i.e., the same case was found in the case management system more than once. The duplicates occurred because clients made multiple requests for assistance that were recorded as separate cases, even though the same legal problem was involved.

OPEN CASES

Rejected Cases

The grantee's branch office reported 1,227 open cases for applicants whose requests for legal assistance had been rejected. The applicants did not meet eligibility criteria and were not accepted as clients. These rejected applicants received no legal services but were counted as cases and included in the 1998 Grant Activity Report as open at year-end.

Untimely Closure of Cases

An estimated 883 cases open at the end of 1998 should have been closed because legal activity had ceased. We reviewed 75 open cases and determined that 27 should have been closed. Nineteen of the 27 cases should have been closed in 1997 or earlier years.

Other Problems with Open Case Counts

The incorrect reporting of rejected clients as cases and cases that should have been closed because legal services were no longer being provided were the causes of the two greatest errors in the number of reported open cases. However, other overstatements of open cases also occurred. Auditors estimated that an additional 236 open cases should not have been reported. There were three categories of errors.

- The grantee could not locate 5 of the 75 sample case files requested by our office. Therefore, we estimated that 163 cases were not supported with files and therefore should not have been reported to LSC.
- The Grant Activity Report included 66 cases more than the total number in the detailed open case listings that were generated from the grantee's automated

information systems. These 66 were not supported by case documentation and therefore should not have been reported to LSC.

- Review of documentation identified 7 cases that were duplicates of other cases. Clients made multiple requests for assistance that were recorded in the grantee's case management system as separate cases even though the same legal problem was involved.

ADDITIONAL CASE MANAGEMENT ISSUES

Eligibility Determinations

Citizenship eligibility was not documented for 31 of the 170 sample cases reviewed by the OIG. In addition, five cases did not include income eligibility determinations. All but two of the cases lacking eligibility documentation were processed by the two subgrantees funded by the grantee.

CONCLUSIONS

The grantee needs to improve the accuracy of the case statistics reported in the Grant Activity Report. Its 1998 report significantly overstated both closed and open cases because the grantee included cases that should not have been reported to LSC, and because cases were not closed in a timely manner. Grantee management needs to ensure that the Grant Activity Report only includes cases that meet LSC's definition of a case and needs to improve controls over the processing of cases. The grantee also needs to provide closer oversight over the sub-grantees in the area of eligibility determinations.

RECOMMENDATIONS

The OIG recommends that grantee management:

1. Discontinue the practice of including CLIRP cases in the Grant Activity Report.
2. Formally instruct staff that cases should be closed in the year legal activity ceased.
3. Implement procedures to periodically review a sample of closed cases and determine if cases are being closed in a timely manner.
4. Implement procedures to periodically review a sample of open cases and determine if cases are being properly classified as active.
5. Implement procedures to periodically review a sample of open and closed cases and verify that files are readily available.
6. Review cases opened prior to 1999 to determine if legal services are being provided, and close those that are no longer being serviced. (Note: Cases

that were completed prior to 1999 should not be included in the 1999 Grant Activity Report.)

7. Review the details of case listings and ensure that rejected cases are excluded from the Grant Activity Report.
8. Implement procedures to periodically review a sample of open and closed cases handled by the subgrantees and verify that eligibility determinations are being made regarding the client's citizenship and income.
9. Submit to LSC a revised 1998 Grant Activity Report that accurately reports the number of cases closed during the year and the number open at year-end.

SUMMARY OF GRANTEE COMMENTS AND OIG DECISIONS

Summary of Grantee's Comments

The grantee disagreed with most of the report findings on the overstatement of closed and open cases. The grantee asserted that many of the cases cited as erroneous were properly reported in the 1998 Grant Activity Report. The comments indicated that the OIG's findings were contrary to LSC rules, regulations, and practices.

The grantee's comments are found in Appendix II.

OIG's Decision

The grantee's comments did not provide any new information. No documentation was provided to support the grantee's assertion that the OIG's findings were contrary to guidelines prescribed by LSC. We concluded that factual changes to the report were not warranted. The OIG reaffirms its findings including the number of case counting errors stated in the audit report.

GRANTEE'S SPECIFIC COMMENTS AND OIG DECISIONS

Closed Cases

Grantee's Comments: CLIRP Cases

The grantee's comments asserted that the closed cases attributable to CLIRP were properly included in the 1998 Grant Activity Report. The draft audit report stated that the CLIRP cases should not be reported because: the cases were not supported by a detail list of clients, the grantee had no assurance that the clients were eligible for assistance, and no legal services were provided for the cases closed to the category "referred after legal assessment"

The grantee asserted that it was not necessary to have a detail list of clients supporting the closed CLIRP cases. According to the grantee, in the past LSC has accepted a percentage of Private Attorney Involvement cases and a percentage of elderly cases in lieu of a detail listings of clients. The grantee also stated that it was reasonable to report a percentage of closed CLIRP cases. In addition, no regulation precludes reporting cases on a percentage basis.

The grantee stated that that there is no formal agreement requiring CLIRP to adhere to LSC regulations. However, CLIRP intake workers determine if callers meet eligibility guidelines since all legal service providers use the same guidelines. Because the OIG did not review any CLIRP cases, there is no evidence that CLIRP did not apply LSC guidelines.

The grantee's comments stated that CLIRP intake workers obtained eligibility information and provided some assistance to individuals whose cases were closed as "referred after legal assessment." These cases represent 68 percent of the closed CLIRP cases. The OIG rejected these cases as well as the 32 percent of cases closed to other categories without reviewing any cases.

The comments stated that local and state bar foundations and IOLA all financially support CLIRP as a single point of contact for the poor people seeking assistance from the multiple legal service providers in Monroe County. According to the grantee: CLIRP intake paralegals spend an average of eleven minutes with each caller; the CLIRP supervising attorney reviews the contacts for quality control; CLIRP intake paralegals often contact the grantee's advocates with questions regarding what information should be provided to the caller. The grantee stated that the CLIRP cases should be counted.

OIG Decision

Using CLIRP as a single intake point appears to be a good approach to providing legal services to the eligible people in Monroe County. The cases CLIRP refers to the grantee and for which the grantee provides legal services should be included in the Grant Activity Report. However, it is not reasonable to include a percentage of all CLIRP closed cases in the Grant activity Report, when the grantee lacks any documentation on the cases.

No documentation was provided to support the grantee's contention that the CLIRP cases were properly reported. The grantee's 1998 Grant Activity Report included 1,410 cases attributable to CLIRP. However, the grantee did not provide legal services for these cases. Providing legal service is a prerequisite to reporting a case. Furthermore, for the 1,410 cases the grantee did not know: (1) the clients' identity; (2) if the clients met LSC eligibility guidelines; (3) the nature of the client's legal problems; and (4) the type of legal services provided or what organization provided the services.

The grantee stated that the OIG did not review any CLIRP cases. The grantee could not identify or provide a list of the 1,410 CLIRP cases reported in the Grant Activity Report. We could not review the CLIRP cases without this information.

After reviewing the audit workpapers and the grantee's comments, the OIG concluded that much of CLIRP's workload related to switchboard type services that did not include the provision of legal services.

Grantee's Comments: Untimely Closure of Cases

The grantee's comments stated that it was not practicable to close out all cases in 1998 in which legal activity had ceased. In addition, the grantee asserted that the 1999 CSR Guidelines did not require the grantee to close out cases in which legal activity had ceased where a higher level of service was provided beyond counsel and advice, brief service or referral.

After reviewing 20 closed files at the grantee's branch office, the OIG found that five cases were closed in 1998 that should have been closed in previous years. The grantee asserted that four of these cases were not erroneously closed. One case, (7949), was closed as a code H, administrative agency decision and under LSC guidelines in force at the time, was not an error. In addition, three cases (9306, 9505, and 9768) were closed at the branch office by advocates manually late in 1997. These three cases were closed after the branch office's case management system crashed and the cases could not be entered into the case management system and therefore "officially closed" until 1998. The grantee provided a lengthy explanation of the problems the branch office had to overcome in 1998 and stated that the cases could not have been closed in a timely manner and therefore should not be treated as errors.

OIG Decision

The grantee incorrectly interpreted the LSC guidelines relating to the timely closing of cases. On November 24, 1998 LSC issued a revised CSR Handbook. The revised Handbook states that "Programs shall ensure the timely closing of cases so that case service reports submitted to LSC contain current and accurate information about both open and closed cases for the grant year (January 1 through December 31)." The revised handbook also addresses cases that do not involve counsel and advice, brief service, or referral after legal assessment. Section 3.3(b) states that "All other cases (CSR Categories D through K) should be reported as having been closed in the year in which program staff makes a determination that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared." Both provisions applied to the data included in the 1998 Grant Activity Report.

The Managing Attorney at the branch office reviewed case number 7949 with the OIG and stated that it should have been closed in July 1997. Even though this case was closed to code H, it should have been reported in the year that legal services ceased. The grantee's comments stated that case numbers 9306, 9505, and 9768 were closed manually in 1997 but were not entered into the case management system and not reported until 1998. The grantee's comments indicate that the OIG accurately reported that legal assistance on these three cases ceased prior to 1998.

Grantee's Comments: Other Problems With Closed Case Counts

The grantee agreed that the OIG found two case files in which the client's income exceeded LSC guidelines. However, the grantee did not agree with the projection of 116 over income clients based on the sample findings. The grantee stated that the sample was not statistically valid.

The grantee agreed that the file for one sample case indicated that the case was paid in full by a source other than LSC. In fact, this only represented the funding source for the advocate's time spent on the case. The grantee stated that the OIG erroneously concluded that this case could not be counted as an LSC case.

At one of the sub-grantee offices the OIG found 42 more cases reported to LSC than were in the case management system. Some cases reported as closed were not closed in the case management system because, although work ceased, they were not entered into the system. They were, however, reported as closed, thereby setting up a discrepancy between the number reported to LSC and the number of closed cases supported by the case management system.

OIG Decision

The OIG estimated that 116 cases involved clients whose income exceeded LSC guidelines. This estimate was based on a statistically valid sample of 170 closed and open cases. This sample size provides a 90 percent confidence level in projecting the error rates disclosed during our review.

After reviewing case number 98-01-011339 with the OIG, the Managing Attorney at the branch office stated that no LSC funds were spent on the case.

The OIG determined that the grantee's detailed listings of closed cases contained 42 cases less than the total number reported to LSC. We were not able to determine the client's name or other identifying information and therefore the existence of these 42 cases could not be verified.

OPEN CASES

Grantee's Comments: Rejected Cases

The grantee agreed that, because of a computer programming error, 1,227 rejected applicants were incorrectly reported as open cases.

Grantee's Comments: Untimely Closure of Cases

According to the grantee, the ten open cases identified at the branch office as not being timely closed, eight were eventually closed out or will be closed out at a higher level of service than advice and brief service and therefore may be carried over into 1999. Because LSC had given programs the option of closing out higher level of service cases in 1998 or 1999 where level activity had ceased in 1998, the grantee asserted that these eight cases should not have been found to be in error. The OIG stated that 15 open cases at one sub-grantee should have been closed. All of these cases were impractical to close because the sub-grantee had no staff to enter data on its case management system.

OIG Decision

The Managing Attorney at the branch office confirmed that the ten cases should not have been reported as open at the end of 1998. During the audit, grantee management stated that all of these cases should have been closed in 1997 or earlier. The OIG reviewed case files with the sub-grantee's Executive Director who verified that 15 cases reported as open as of December 31, 1998 were not active and should have been closed. As previously stated, both the old and revised CSR Handbooks clearly indicated that the Case Service Report is intended to collect annual data for the specific grant year and not cumulative statistics on prior year services. Otherwise annual reports would be meaningless.

Grantee's Comments: Other Problems With Open Case Counts

The grantee agreed that the OIG found five cases for which there was no supporting files but objected to the estimation that 163 reported cases were in error.

The 66 open cases at the sub-grantee where there was no documentation in the case management system were all eligible cases in which legal work was being provided. Prior to when the sub-grantee computerized intake, case data was manually entered into the case management system. Due to staff shortages some cases were not promptly entered into the system even though advocates were providing legal services. The advocates maintained manual lists of these cases. At any one time, the manual compilation of cases did not necessarily match the computerized list because of the time lag in entering information into the computerized system. However, some of these open cases were reported even though they were not open on the case management system.

OIG Decision

The OIG estimated that 163 cases were not supported with files and therefore should not have been reported to LSC. This estimate was based on a statistically valid sample of 170 closed and open cases. This sample size provides a 90 percent confidence level in projecting the error rates disclosed during our review.

The OIG determined that the grantee's detailed listings of open cases contained 66 cases less than the total number reported to LSC. We were not able to determine the client's name or other identifying information and therefore the existence of these 66 cases could not be verified.

Grantee Comments on Recommendations

The grantee agreed with the recommendations in the draft audit. The comments stated that six of the OIG's recommendations (#2, 3, 4, 5, 6, and 7) had already been implemented when the audit was performed. The other three recommendations (#1, 8, and 9) will be implemented. The grantee stated that a revised Grant Activity Report for 1998 (Recommendation 9) would not be submitted to LSC until the grantee works out the number of errors with the OIG.

OIG Decision

The OIG reaffirms its findings and recommendations. The grantee should submit a revised 1998 Grant Activity Report that reflects a reduction of 2,580 closed cases and 2,346 open cases. The submission of the report should be coordinated with LSC management.

The grantee's comments indicated that Recommendation 2, "Formally instruct staff that cases should be closed in the year legal activity ceased" had been implemented. However, according to the grantee's comments the staff was told that only advice and brief services cases should be closed in the year legal services cease. This is incorrect. All cases should be closed when legal services are no longer provided.

All recommendations are considered unresolved. Please provide a corrective action plan for implementation of the recommendations. The corrective action plan should include a description of the action taken to implement the recommendations and the dates corrective action was completed, or will be completed for the recommendations not yet implemented. Please submit the corrective action plan to the OIG within 30 days of the date of this report.

LISTING OF FINDINGS AND ASSOCIATED RECOMMENDATIONS

Findings:

1. Closed cases were overstated (page 6).
Recommendations #1-3 and 5-9
2. Open cases were overstated (page 7)
Recommendations #4-6 and 8 and 9
3. Other Case Management Issues (page 8)
Recommendation #8

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July 31, 1999

Edward R. Quatrevaux
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Dear Mr. Quatrevaux:

We received your draft report of the OIG audit of our program in April, 1999. First, let me thank you for extending the time within which to submit our response. We have carefully reviewed the draft report and have enclosed our response.

After you have reviewed our response, I understand that you will be finalizing the report. We have raised a number of disagreements with the conclusions drawn for the audit findings. I have indicated we believe the findings were contrary to LSC rules, regulations, instructions, and practice. I would appreciate the opportunity to discuss with you how to complete a more accurate conclusion of our 1998 CSR figures.

I also want to reiterate my comments in the response concerning the professionalism and consideration displayed by the audit team. We appreciated their attempt to minimize interruptions to our work and the cooperative relationship we were able to establish.

Please feel free to contact me at your convenience.

Sincerely,

LeAnna Hart Gipson
Executive Director

MCLAC is a not-for-profit law firm dedicated to preserving access to justice for the poor.

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**MONROE COUNTY LEGAL ASSISTANCE CORPORATION
RECIPIENT NO. 233130**

RESPONSE

**OFFICE OF INSPECTOR GENERAL
REVIEW OF 1998 CASE STATISTICAL REPORTS
DRAFT**

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Response to Recommendations 9

This report includes the acronyms for several components of the legal service delivery system in the recipient's service area. The following is a list of each program's acronym and an explanation of their role in the delivery system:

- MCLAC Monroe County Legal Assistance Corporation, the LSC recipient for Monroe County and eight additional rural counties.
- LAFL Legal Assistance of the Finger Lakes, the branch office of MCLAC serving five rural counties.
- OOLS Oak Orchard Legal Services, a sub-grantee of MCLAC serving three rural counties.
- CLIRP Community Legal Intake and Referral Project, an independent provider in Monroe County providing centralized reception and intake for four legal providers, including MCLAC.

Response Summary

The draft OIG report concluded that "there were two primary causes of the overstatement of closed cases... the grantee incorrectly reported 1,410 cases processed by [CLIRP]... and an estimated 868 cases were reported as closed in 1998 even though legal activity had ceased prior to 1998."

MCLAC asserts that the exclusion of CLIRP cases presents an inaccurate accounting of the services rendered to poor people in 1998 and that the inclusion of CLIRP cases is supported by past practices of the Legal Services Corporation (LSC). Because CLIRP cases were not reviewed, there is no evidence that the pro rata share of cases counted for LSC purposes were ineligible, untimely, or violated any other CSR rule. MCLAC requests that the final OIG report delete its finding regarding CLIRP or review a statistically valid sample of CLIRP's 7,500 cases to determine if there were at least 1,410 eligible clients who received services.

MCLAC also asserts that a number of cases closed in 1998 in which legal activity had ceased prior to 1998 were properly counted in 1998, according to LSC instructions. The actual number of exceptions was in error and the estimates overstated. MCLAC requests that the final report review these closed cases and recalculate the estimates.

MCLAC questions the validity of the sampling and the estimates based upon the sampling and asserts that the estimates are overstated.

The draft report also identified several reasons for the conclusion that MCLAC had overstated the number of open cases at year-end. The reasons included that (1) our branch office, Legal Assistance of the Finger Lakes (LAFI), had "incorrectly reported 1,227 cases in which potential clients had been rejected and did not receive any legal services;" (2) there were an estimated 883 open cases that "should have been closed because legal activity had ceased;" (3) an estimated 163 case files could not be located; and (4) there was no support for 66 cases in one of our sub-grantee's automated case management system.

MCLAC agrees that, due to a computer programming error, LAFI incorrectly reported 1,227 open cases in its overall count of open cases. However, the correct number of open cases was stated in the 1998 CSR breakdown of open cases by substantive area. Management failed to catch this discrepancy. This error will not occur again.

MCLAC disagrees that an estimated 883 open cases (extrapolated from 27 case exceptions out of 75 cases reviewed) should have been closed in a prior year. In fact, at least eight of the 27 exceptions were improperly defined as such under the 1999 CSR Guidelines. We also assert that the remaining sample cases could not have been closed practicably in 1998. The final OIG report should reflect no exceptions in this category, or no more than 621 under the new CSR rules.

MCLAC agrees that five open case files were missing but questions the validity of the sampling and the extrapolation from that data that 163 case files are missing.

MCLAC agrees that there was no support for 66 open cases at its subgrantee, Oak Orchard Legal Services (OOLS). However, this is because OOLS does not have a computerized intake system but tracks intake manually until a secretary is available to input the information into the case management system. [See explanation below.] There was no finding of a lack of support in the case management systems in any of the other offices.

Finally, the draft report fails to mention that MCLAC had performed a self-inspection in late 1998, identified a number of weaknesses, and instituted policies and procedures to correct those weaknesses prior to being notified of an OIG CSR audit. Indeed, six of the nine OIG recommendations had already been implemented at the time of the visit. The Executive Director openly discussed key problems with auditors upon their arrival and the significant changes that had been implemented in 1999. The final report should reflect this.

Background

First, we wish to acknowledge that the audit team was professional, cordial, and sensitive to the needs of the office to continue to deliver services during their visit. They were helpful in suggesting ways to improve our monitoring of compliance issues and validated the changes in policies and procedures that we had already instituted.

MCLAC has 28 different funding sources, including several federal and state grants with significant reporting requirements. Some funders require monthly case reports, some quarterly, and some, like LSC, require annual case reports. Each of the three offices has a different configuration of funding sources and reporting requirements. The over-riding goal of our case management systems is to accurately capture the full range of services provided to clients and to be able to report to funding sources on the services for which they pay.

We have worked within the limitations of the CSR system to capture and report information on client services to LSC. Historically, there have been some problem areas since the CSR definitions primarily counted individual litigation/hearing activities. While in the past we conceded that legal education and training should not be counted along with direct representation, we have continuously requested that the CSR's be changed to include another way of capturing these services. What is more troubling is that the CSR's do not measure unrestricted policy advocacy, community economic development, cases which affected more than one client, and undervalues transactional work such as contracts, powers of attorney, guardianship, health care planning, wills, and other legal representation where there is no adverse party. These cases all involve direct legal representation. Again, we have historically advocated for changes in the CSR's so that these services could be documented.

In order to overcome some of these shortcomings, prior to 1999, LSC did not narrowly define cases and encouraged programs to close cases out at the highest level appropriate to the work done. It recognized that brief service could reflect a very long and evolved process of preparing a durable power of attorney for a mentally ill client. LSC was very cognizant that brief service did not necessarily mean brief. LSC was also very cognizant of the different kinds of cases that should not be closed in the year in which activity ceased, including cases that could be prolonged through the action of the opposing party and cases where it was in the

client's best interest for the case not to be activated. LSC allowed recipients to report a pro rata share of their elderly cases funded, in part through Title XX, in the same proportion as there were low-income seniors in the population. LSC also allowed recipients to report a pro rata share of PAI cases handled by stand-alone pro bono programs based upon the percentage of recipient support to the pro bono program's total funding. LSC accepted the common practice of counting as "referred after legal assessment" cases where significant intake was provided even if there was no other legal service delivered.

When LSC did make changes to the CSR reports regarding timeliness, it created a reporting year that could not accurately be reconciled with previous reporting years. The new CSR definitions and requirements resulted in the inability of programs to report all of the cases in which valuable legal services had been delivered to eligible clients. Because of the addition of new CSR definitions and procedures that required that open and closed cases be counted differently than previous years, there had to be one year in which cases were lost. That year is 1998. However, in order to limit the number of actual cases lost, LSC allowed programs to treat higher level of service cases differently than advice and brief counsel cases. Where actual case work was completed in 1998 and was limited to counsel and advice, brief service and referrals, the cases were required to be closed in 1998. However, for cases where more extensive assistance was provided, LSC had made it clear that recipients could include them in their 1998 CSR report or count the work on case closure memoranda that was done in 1999 and include the cases in their 1999 CSR report.

Objectives, Scope and Methodology

We have the following objections to some of the objectives, scope and methodology employed by the OIG.

1. **Applied standards not in force at the time of reporting.**

For 1998 CSR reports due on March 1, 1999, LSC did not require programs to eliminate duplication of cases that occurred in 1998, although it urged programs which could to do so.

Notification of new rules on timeliness was not received by grantees until November 1998. LSC allowed recipients to choose whether to report cases in 1998 or in 1999 where a higher level of service was provided but legal activity had ceased in 1998. We were not instructed to reopen our 1997 CSR so that we could appropriately count cases in which legal activity ceased prior to 1998.

The OIG review gave undue emphasis on the time of closing cases for two reasons. (1) . If the number of cases open in 1998 were overstated, then the number of cases closed in 1997 were understated. Real services were delivered to real clients. Whether the services are counted in one year or the next is an arbitrary requirement of the reporting authority. When a case is closed out on a computer system is a bureaucratic concern, which, while important, is of secondary concern to overworked, underpaid advocates who must choose between helping one more person in crisis or doing paperwork. The decision to limit advice and brief service to the year in which legal assistance ceased is arbitrary and meets the needs of the reporting authority but has nothing to do with the professional handling of

cases nor with the measurement of casework. (2) There is an unavoidable time lag between the time a case is concluded by the advocate and when the case is actually closed on the case management system. Once an advocate has concluded a case, a supervisor reviews the case file for quality control. Then the file goes to a secretary who checks the compliance checklist to make sure that all LSC compliance paperwork, such as citizenship attestations and, where appropriate, proof of alien status. Only then is the case closed out on the computer system. In the Rochester Office, two supervising attorneys review the casework of twelve advocates. In the Geneva Office, the Managing Attorney reviews the cases for seven advocates. The case closing process may take several months. It is arbitrary to decide that the end of the calendar year has any real significance.

2. Extrapolation suspect

We do not agree that an appropriate statistical sample was extracted regarding alleged violations and assert that the estimates are overstated. For example, in the Rochester Office, prior to the OIG visit, we conducted a case-by-case review of all cases where the same client had multiple cases. A memorandum on each case was provided to the OIG and they determined that only 20 cases were actually duplicate cases. However, if they had tested their sample of 35 cases and found just one duplicate case, the OIG would have extrapolated a minimum of 58 duplicate cases – three times the number of actual duplicates. Therefore, it is likely that the estimates with regard to many of the samples are overstated.

3. Applied rules which contradicted LSC rules and/or practices

For 1998 CSR reports, LSC specifically allowed programs who were serving over-income clients, such as seniors, supported in part by other funds, to either (1) not report at all, (2) report only cases where have specific income/asset information, or (3) report a percentage of elderly cases based on reliable information about the overall percentage of poor among the funded group. This practice has two consequences on data collection. First, it was reasonable to assume that we could use a percentage of CLIRP cases based upon reliable information concerning client eligibility. At various years in the past, MCLAC has reported a percentage of PAI cases and/or a percentage of elderly cases. Secondly, in order to take a percentage, all of the cases must be counted until the end of the reporting period when a percentage of closed cases can be extrapolated. For this reason, MCLAC does not factor out ineligible seniors for open cases. In addition, it is not always possible to accurately reflect the income eligibility of a senior client at the beginning of a case. Because of medical and other expenses, some clients can spend down their income to a point where they become eligible. This means that at least a portion of the case could be paid for by LSC. Again, these cases are reviewed at closing for proper funding code designations. It is not practicable to determine that these are not LSC eligible cases at opening.

4. Made blanket findings without any actual review of CLIRP cases.

None of CLIRP's 7500 cases were actually reviewed to determine whether ineligible clients were served or whether legal assistance had been provided. All of CLIRP's cases were excluded even though many were reported as advice cases. In addition, a review of CLIRP cases could have determined that some cases had been mischaracterized as

"referred after legal assessment" when, in fact, some advice and/or brief service had been provided. Previously, there had been no emphasis on closing out CLIRP cases as advice versus referred after legal assessment, since the LSC practice had been to count these cases in either event. We believe that many of CLIRP's cases that were closed as referral cases could have been closed as advice cases. At the very least, CLIRP's advice and brief service cases must not be counted as errors.

Response to OIG Results of Audit

Closed Cases

CLIRP Cases

Without reviewing any of the cases, the draft report notes three reasons why none of CLIRP's cases should be counted. First, the "number of cases reported was not supported by a list of specific cases." LSC for many years has accepted a percentage of PAI cases instead of specific individual cases. They have also accepted a percentage of elderly cases based upon the percentage of poor elderly. It was reasonable to conclude that we could justifiably take a percentage of cases handled by CLIRP. There is no rule or regulation to the contrary that was in effect in 1998.

Second, the "grantee had no assurance that the clients were eligible for assistance because the grantee did not have controls to ensure that cases processed by CLIRP met LSC eligibility regulations" and "there was no formal agreement... requiring CLIRP to adhere to laws and LSC regulations." While it is true that there is no formal agreement requiring CLIRP to adhere to LSC regulations, in fact, CLIRP intake workers do determine if the caller meets LSC eligibility guidelines since all of the legal service providers use the same guidelines whether they are funded by LSC or not. There is no evidence that CLIRP did not apply LSC eligibility guidelines because no cases were reviewed.

Third, 68% of the cases CLIRP closed were closed as "referred after legal assessment but did not involve the provision of legal services." CLIRP intake workers obtain income and asset information, determine the nature of the legal problem, review the intake limitations of providers, provide simple information such as calculating the amount of time a person has to respond to a notice, advise callers on interim steps that need to be taken to maintain the status quo such as filing for a fair hearing, and inform the caller if there is any provider who can handle their case. The callers are then provided with a referral to the most appropriate resource. All of the cases were rejected by the OIG with no review of the 32% of CLIRP cases which were closed out as other than "referred after legal assessment." In addition, we believe that many of the cases closed out as referral cases could have been properly characterized as advice cases.

We also assert that eliminating the "referred after legal assessment" cases presents a distorted view of the legal work of the office. The 1993 CSR Handbook and other guidance from LSC does not make clear what "referred after legal assessment" means. It has been the accepted practice for many years that programs that created systems to analyze and direct client questions were to close these activities out as "referred after legal assessment." In Rochester,

insuring that clients did not have to call six different providers to find someone to handle their case is a very high priority. The local and state bar foundation and IOLA all financially support a single point of contact for the tens of thousands of poor people seeking assistance from the multiple legal service providers in Monroe County. CLIRP intake paralegals spend an average of eleven minutes with each caller. Case information, including the information provided, is entered into the case management system. The CLIRP supervising attorney reviews the contacts for quality control. CLIRP intake paralegals often contact MCLAC advocates with questions regarding what information should be provided to the caller. In turn, this takes tremendous pressure off of each provider so that they can concentrate on their core work. We believe that these cases should be counted.

In the alternative, we request the opportunity to identify which of the 32% of CLIRP cases were not closed out as "referred after legal assessment" and determine whether our percentage share of 1,410 cases can be appropriately taken from these cases. At the very least, all CLIRP cases closed out as advice or brief service must not be counted as errors.

Untimely Closure of Cases

It was not practicable for MCLAC to close out all cases in 1998 in which legal activity had ceased, and, indeed, the 1999 CSR Guidelines did not require MCLAC to close out cases in which legal activity had ceased where a higher level of service was provided beyond counsel and advice, brief service and referral.

After reviewing 20 closed files, the OIG found that there were 5 cases closed in 1998 that should have been closed in previous years without regard to the level of service rendered. Of these, one, 7949, had a code H, administrative agency decision closing and, therefore, under LSC guidelines in force at the time, was not an error. In addition, three (9306, 9505, and 9768) were closed at LAFL by advocates manually late in 1997 (12/16/97, 12/3/97 and 11/26/97, respectively). These three cases were closed after LAFL's case management system crashed and could not be entered into the case management system and therefore "officially closed" until 1998.

LAFL's case management system crashed in 11/97. LAFL had to manually track cases that were opened and cases that were closed over the next few months as it explored various case management systems in order to ascertain what was best suited for their particular needs, given the large number of funders that they have and the different data required by each funder. In 5/98, they executed a license agreement for the new case management system.

Initially, LAFL had to convert all of the data that had been maintained on their old case management system for the period from 1992-1997 so that the data could be read for purposes of conflict searching, past history searching, grant reporting, etc. This process was not completed until 8/98.

The next step was to enter all cases that LAF had opened from 11/97 forward into the new case management system. All of these cases were until then being traced only manually. This data entry project occurred and was completed in the month of 8/98.

Beginning in the month of 10/98, LAFL then began the process of entering data on cases that had been closed by LAFL advocates from 11/97 forward. By the end of the year entries were made for approximately 1,700 new cases and approximately 900 of the cases that had been closed. Most of the closed cases entered into case management prior to 12/31/98 were for short service cases. Approximately 600 extended service cases closed by advocates during 1998 were not entered into the system by 2/28/99 and, therefore, not reported as closed to LSC.

It was not possible, let alone practicable, for LAFL to complete this massive data entry project any more timely because of the tremendous lack of staff resources that they experienced in 1998. First, LAFL only has two full-time support staff positions. One of these was vacant from 6/97 - 6/98 because the legal secretary was on an extended medical leave of absence. She was only able to be replaced from time to time by short term, temporary employees who primarily handled receptionist responsibilities, or by Manpower employees stationed at LAFL on a contract basis. She was finally replaced in 7/98, but her replacement resigned after a short period of time, in 10/98. Because of the loss of another significant funding source, it then became fiscally impossible to replace the legal secretary until 1/99 when a receptionist, rather than a legal secretary, was hired.

Therefore, LAFL could not have closed out these cases in a timely manner and these cases should not be treated as errors. It was "impracticable" to close them on the computerized case management system and these cases should have been treated like the higher level of service cases which could have been closed out in 1998 under LSC guidelines in operation at the time.

Other Problems with Closed Case Counts

MCLAC admits that the OIG found two case files in which the client's income exceeded LSC income guidelines; however, we do not concur that this is a statistically valid sampling nor that it is reasonable to conclude that because two cases were found, 116 cases were in error.

No cases are fully funded by other funding sources except for ineligible clients. In all other cases, some portion of overhead, library, and rent, at the very least, are attributable to LSC. One case was found where the client file indicated that it was paid in full by other funders. In fact, this only reflected the funding source for the advocate's time spent on the case. It was in error for the OIG to conclude that this case could not be counted as an LSC case.

At one of the sub-grantee offices, OOLS, the OIG found 42 more cases reported to LSC than were on the case management system. Prior to computerized intake, client information was taken manually for a secretary to enter into the system later. When OOLS was short-staffed, the cases were given to advocates to work on prior to their input into the system. When work ceased on the case, the case was given to the secretary to close on the system. And, because many of them hadn't been opened on the system, the opening and closure took place at the same time. Some cases reported as closed were not closed on the computer system because, although work ceased, they were not entered into the case management system. They were, however, reported as closed, thereby setting up a discrepancy between the number reported

and the number of closed cases on the case management system.

MCLAC's case management system requires that the systems manager delete duplicate cases from the system and does not allow advocates to delete duplicate cases. In Rochester, the OIG found that 18 of the 20 duplicate cases had been identified and noted by advocates. The auditors were informed of this problem and that MCLAC had set up a procedure for the systems manager to go in and delete duplicates and transfer time and case records to the old case.

Open Cases

Rejected Cases

MCLAC agrees that, due to a computer programming error, LAFL incorrectly reported 1,227 cases as open in their general CSR figures. However, the correct number of open cases were reported in the CSR report of open cases by substantive area. Management did not catch this inconsistency.

Untimely Closure of Cases

While the CSR Guidelines now require recipients to close out cases in the year in which legal activity ceased, there are many exceptions to this rule, including cases that could be prolonged through the action of the opposing party and cases where it was in the client's best interest for the case not to be activated. In addition, with regard to open cases, there are many open cases where an advocate cannot determine the level of service that will ultimately be provided for many months, either because they are waiting on doctor's reports, legal research, investigation, etc. Therefore, in many cases, an advocate cannot determine whether a case will receive only advice and brief service and have to be closed out in the year in which the case was opened or whether investigation and research will mean that a higher level of service will be provided and the case carried over into the next year.

In the 10 open cases identified at LAFL as not being timely closed, 8 were eventually closed out or will be closed out at a higher level of service than advice and brief service and therefore allowed to be carried over into 1999. As mentioned above, LSC had given programs the option of closing out higher level of service cases in 1998 or 1999 where legal activity had ceased in 1998. These eight cases should not have been found to be in error.

Of the 15 open cases at OOLS which were determined should have been closed, all of these cases were impractical to close because OOLS had no staff to enter data on its case management system. Therefore, it was not practicable to close these cases.

Other Problems with Open Case Counts

MCLAC does not question that the OIG found five cases for which there was no supporting files but objects to the estimation that this reasonably means that 163 reported cases are in error.

The 66 open cases at OOLS where there was no documentation in the case management system were all eligible cases in which legal work was being provided. Prior to when OOLS

computerized intake, client information was taken manually for a secretary to enter into the case management system. When OCLIS was short-staffed, the cases were given to advocates to work on prior to their input into the computerized system, although they kept track manually of the cases. When work ceased on the case, the case was given to the secretary to close on the computerized system. And, because they hadn't been opened on the system, the opening and closure took place at the same time. At any one time, the manual compilation of cases did not necessarily match the computerized list because of the time lag in entering information onto the computerized system. However, they reported some of these open cases even though they were not open on the case management system.

Response to OIG Recommendations

At the time of the OIG review, the OIG was informed that the following policies and procedures already had been implemented:

1. Staff had been formally instructed that advice and brief service cases must be closed out in the year legal activity ceased.
2. Monthly reports are provided to staff that indicate how many cases were opened and closed. Executive Director reviews monthly reports and emails staff where there is an indication that cases are not being closed timely.
3. The Managing Attorney of the Geneva Office performs a full file review of each advocate in Rochester and Geneva, at least twice a year, for compliance purposes, including timely closing of cases.
4. Twice yearly, a sample of open and closed case file availability are verified.
5. All cases opened prior to 1999 were reviewed with instruction to all advocates to close them immediately, if appropriate.
6. Computer protocols were instituted to insure that rejected cases are excluded from the CSR.

In addition, the OIG was informed of additional policies and procedure instituted prior to their visit, including:

1. Case management system changed to include a box for advocates to check when case should not be counted for CSR purposes.
2. The case management system has no mechanism for advocates to delete duplicate cases. A procedure was set up for the system manager to go in and reopen case, delete duplicate case, and transfer time and case information to old case.
3. A memorandum on all clients in the Rochester Office who had more than one cases opened or closed in 1998 had been prepared by advocates explaining why there was more than one case or indicating that the case was a duplicate case. These memoranda were made available to the OIG.

The three recommendations not already implemented by MCLAC are to (1) discontinue the practice of including CLIRP cases, (2) implement procedures to periodically review a sample of open and closed cases handled by the subgrantees to verify that eligibility determinations are being made regarding citizenship and income, and (3) submit revised 1998 CSR data.

MCLAC accepts the OIG's recommendation with regard to CLIRP for 1999 CSR's. However, since CLIRP performs a valuable service to the client community and LSC has indicated a preference for hotlines and cost effective referral systems and is reviewing its CSR definitions, we remain open to the possibility that these services will be counted and used to show the full range of services delivered to clients in our service area in the future. We understand that we may not be able to take a percentage of cases but may be required to identify specific cases but will have to insure that CLIRP is contractually committed to complying with LSC rules and regulations.

MCLAC accepts the OIG's recommendation with regard to implementing procedures to periodically review our subgrantees. In 1998, our focus was in making the necessary changes in the Rochester and Geneva Offices so that we could comply with the new CSR requirements in 1999. We intend to review a sample of cases from the subgrantees to insure LSC compliance. The year 2000 subgrants will require that the subgrantees use our compliance checklist.

Once we have worked out the number of actual errors in our 1998 CSR figures with the OIG, we will resubmit our data.