

Addendum to the Audit Report

After the issuance of the final of the Office of the Inspector General's (OIG) Audit of the Grant Agreement between the Office of the Attorney General (OAG) and District of Columbia Bar Foundation (DCBF) (OIG No. 09-2-06CB) we received the attached response from Legal Aid Services.

While we did not direct recommendations to Legal Aid Services, a subgrant recipient included in our audit, we did provide them with a courtesy copy of our draft report. Based on the comments provided, we reexamined our facts and conclusions and determined that our report is presented fairly.

A copy of the response received in its entirety is attached.



September 9, 2009

Charles J. Willoughby, Inspector General
Office of the Inspector General
717 14th Street, N.W.
Washington, D.C. 20005

Re: Audit of the Grant Agreement between the D.C. Bar Foundation and the Attorney General

Dear Mr. Willoughby:

Thank you for the opportunity to review the draft report of the Audit of the grant agreement between the D.C. Bar Foundation and the Attorney General. The Legal Aid society of the District of Columbia is a subgrantee and we were interviewed and documents were collected from us during the audit process.

I have a number of concerns about the draft that I wanted to bring to your attention before it is finalized.

1. The audit report properly notes that legal services providers are prohibited by the rules of professional ethics from allowing third parties, including auditors, to review client confidential information. The report concludes: "Without having access to client information, there can be no verification that grant funds were used to provide legal services to individuals who were eligible to receive program benefits and that the subgrant minimums for clients served were met." (Draft Audit at i.) This is both factually and analytically inaccurate.

During the audit we provided the OIG with extensive information that verifies that the clients we represent meet our income and case type criteria,¹ including the following:

- A case list for clients assisted by two of the lawyers in the Court based legal services project. The list included the names and case number of clients for whom we appeared. Only cases in which the identity of the client was confidential were redacted. This list was generated at the request of the auditor who requested that we provide the lists for these two lawyers as a sample. (See May 18, 2009 letter from Jonathan Smith to

¹The Legal Aid Society received funding for two grants: first, to staff an office in the Superior Court to assist District tenants and second to provide services on landlord and tenant, domestic violence and public benefits in community offices. In our applications to the D.C. Bar Foundation and in our reports, we have promised to assist litigants in accordance with our case selection criteria which include meeting one of our subject matter priorities, living within 200% of the federal poverty line and having a matter within the jurisdiction of the Courts, tribunals or agencies of the District of Columbia. In rare exceptions, if there are unusual circumstances I am authorized to assist a party that is above income. We routinely refer non-District residents to providers in other jurisdictions when they apply for services.

- Legal Aid's intake criteria and the policies and procedures that we use to means test clients as well as our case selection criteria. Id.
- A copy of the HHS poverty guidelines. (Provided at the interview.)
- Information on Legal Aid's case management system, the data we collect and the controls we have in place. (Provided at the interview)
- Copies of our grant reports to the D.C Bar Foundation. Every three months we provide the Foundation with detailed statistical reports. During our meeting with the auditor it was revealed that she had reviewed our file at the Foundation, but not looked at the quarterly reports. In response, we copied the reports and provided them to her. (Provided at the interview.)

The draft report also does not reflect that we offered to work with the auditor to identify other strategies that we could use to help her further verify the income and the District residence of clients served without breaching our attorney client privileged. This offer was never pursued. We were told, in sum, that unless the auditor had access to client files, nothing else would do.

2. The report comments on the obligation of subgrantees to provide training to their staff. The draft notes: "we were unable to identify specific training taken by lawyers and the course curriculum used." (Draft audit at ii.) This statement is also inaccurate, at least as it applies to Legal Aid. By letter dated May 18, 2009 to _____ from me, we transmitted copies of our training materials. These documents included the course materials, schedule and handouts for both internal and external trainings. After submitting these materials, we received no additional requests for information, there were no clarifying questions nor were we ever told that the information we provided was in any way incomplete. If additional information is, or was, required it could have been made available with additional inquiry.

3. The draft report recommends that sub-grant agreements "requir[e] clients to sign a consent form that: allows client intake documents to be made available for audit purposes." This recommendation is deeply problematic from a legal ethics perspective. There is no limitation on documents that will be subject to disclosure (e.g., eligibility information, attorney notes, internal legal memoranda, witness statements, copies of documents provided in connection with the legal problem) nor the persons to whom the information can be disclosed. This proposal is unworkable for a range of reasons.

Lack of Standard: The D.C. Statute creating the Poverty Lawyer program has no income limitation. It requires that the funds be used for "low-income" or "underserved" persons. Low-income is not defined and the inclusion of the "underserved" language contemplates that persons who might not be low-income, but otherwise cannot afford or access counsel, can be represented by counsel using these funds. Thus, even if the OIG has access to client files, there is no standard to measure compliance other than the guidelines established by individual programs. To the contrary, the plain language of the authorizing statute expressly authorizes the use of funds to provide counsel to under-served populations.

This is not an issue that can be resolved in the grant or subgrant agreements. To the extent that the law is unclear, further legislation will be required, or, at a minimum formal rulemaking.

Confidentiality: Confidentiality is one of the highest values in the attorney client relationship and it is protected by the Rules of Professional Conduct. A lawyer is required to keep her or his client's confidences. Rule 1.6 of the Rules of Professional Conduct. Confidences can be disclosed in specific circumstances, including the "informed consent of the client." Rule 1.6 (e)(1). Informed consent is defined as "the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct." Rule 1.0(e).

In order to comply with the OIG's proposal, at the first meeting with a client, the legal services lawyer would be required to disclose 1) that all information provided could be turned over to the District of Columbia at any time; 2) that there is no limitation on the use of the information by the District nor promise that the District will keep the information private; and 3) if the District is adverse or potentially adverse in the matter (e.g., Food Stamps, TANF, school discipline, certain housing or employment matters, etc.), the information could be used against the client in any proceeding.² Then the lawyer will ask the client to sign a waiver indicating agreement to these terms. This would force the lawyer to compromise the attorney client relationship at its inception.³ Moreover, given the confusing nature of this waiver and the fact that legal services clients often have no other choice regarding their counsel, it is questionable how knowing and voluntary such a waiver could be.

Women Escaping Domestic Violence: The draft recommendation presents particularly acute problems for women seeking legal assistance to escape domestic violence. The type of information that is acquired during an initial meeting is very personal. It involves intimate relationships and often the disclosure of sexual abuse. Many women seeking help are traumatized and have lived for some time with physical and emotional abuse. The idea that their private information might be further disclosed may be sufficient to discourage them from seeking help.

In addition, disclosure of even basic information such as an address or the identity of an employer may place a woman's safety at risk. Without protections to ensure that the information will not be publicly disclosed, the OIG proposal is harmful to these clients. Moreover, even with such protections in place, the requirement that a domestic violence attorney, at the very inception of the attorney-client relationship, devote time to explaining this waiver may cause domestic violence victims to decline to seek the services of a legal services attorney, thereby harming litigant safety.

²This risk is not hypothetical. During our interview with the auditor, she advised us that she had been instructed by the Attorney General to inquire about litigation brought by Legal Aid against the District.

³It is unclear whether a lawyer can ethically advise her or his client to sign a waiver under these circumstances.

The Proposed OIG Waiver Requirements are Very Different than the LSC Procedure: In making this recommendation, the auditor looks to the scheme used by the Legal Services Corporation to ensure compliance with its statute and regulations by its grantees. The analogy in inapt.

- First, the Legal Services Corporation has a detailed statutory and regulatory structure that governs financial eligibility. 45 CFR 1611 et seq. There are clear requirements and benchmarks that have been created by statute, interpreted by rule making and clarified by guidance to programs. As a result, the regulations can be precisely written to meet the limited needs of regulators for information and prevent interference with the ethical obligations of lawyers.
- Second, LSC has created carefully crafted rules to ensure that client confidences are protected. See <http://www.lsc.gov/pdfs/arecpc01010503.pdf> (in which LSC notes: “[t]he LSC Act recognizes that some records contain information that is protected by the attorney-client privilege and/or attorney’s ethical responsibilities under rules of professional responsibility.” Section 1009(d) of the LSC Act explicitly provides that “neither the Corporation nor the Comptroller General shall have access to any reports or records subject to the attorney-client privilege.” In addition, section 1006(b)(3) includes both a prohibition that LSC “shall not, under any provision of this title, interfere with any attorney in carrying out his professional responsibilities” and also imposes an affirmative duty that LSC “shall ensure that activities under this title are carried out in a manner consistent with attorneys’ professional responsibilities.”) These rules were developed over time and after significant litigation between programs and LSC over disclosure obligations.
- LSC and its Office of Inspector General are never adverse to a client who is being served be a legal service provider. By contrast, the District might often be adverse, even if only as a formal matter. In this case, the District’s OIG acted at the behest of the Attorney General, who will often be adverse in child support or public benefits cases that could be covered by the grant.

Please do not hesitate to contact me if you have additional questions.

Very Truly Yours,

Jonathan M. Smith
Executive Director

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE INSPECTOR GENERAL**

**AUDIT OF THE
GRANT AGREEMENT
BETWEEN THE
OFFICE OF THE ATTORNEY GENERAL
AND
DISTRICT OF COLUMBIA BAR FOUNDATION**



**CHARLES J. WILLOUGHBY
INSPECTOR GENERAL**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



October 1, 2009

Peter J. Nickles
Attorney General
Office of the Attorney General
The John A. Wilson Building
1350 Pennsylvania Avenue, N.W., Room 409
Washington, D.C. 20004

Dear Mr. Nickles:

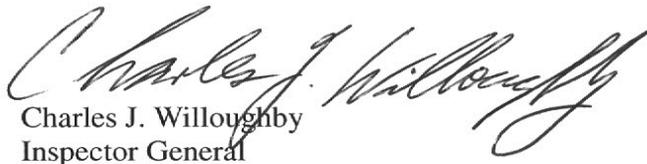
Enclosed is the final report summarizing the results of the Office of the Inspector General's (OIG) Audit of the Grant Agreement between the Office of the Attorney General (OAG) and District of Columbia Bar Foundation (DCBF) (OIG No. 09-2-06CB).

As a result of our audit, we directed 12 recommendations to the OAG for necessary action to correct identified deficiencies. We received responses to a draft of this report from the OAG on August 25, 2009. The OAG agreed with our recommendations. We consider actions planned by the OAG to be responsive to the recommendations. The full text of the OAG's response is included at Exhibit B.

While we did not direct recommendations to DCBF and the six subgrant recipients included in our audit, we did provide them with a courtesy copy of our draft report. DCBF and five of the six subgrant recipients provided comments to our draft report. Based on the comments provided, we reexamined our facts and conclusions and determined that our report is presented fairly. Further, a review of the comments provided indicates that there is no widespread agreement on the issues of access to client records and what constitutes eligible law school debt. However, the OAG has agreed to modify future grant agreements to clarify these issues. The full text of all responses is included as Exhibits C – H.

We appreciate the cooperation and courtesies extended to our staff by the OAG, DCBF, and subgrantee personnel. If you have any questions, please contact William J. DiVello, Assistant Inspector General for Audit, at (202) 727-2540.

Sincerely,


Charles J. Willoughby
Inspector General

CJW/js

cc: See Distribution List

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**AUDIT OF THE
GRANT AGREEMENT
BETWEEN THE
OFFICE OF THE ATTORNEY GENERAL
AND
DISTRICT OF COLUMBIA BAR FOUNDATION**

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EXECUTIVE DIGEST

OVERVIEW

The District of Columbia Office of the Inspector General (OIG) has completed an audit of the District of Columbia Office of the Attorney General's (OAG) grant agreement with the District of Columbia Bar Foundation (DCBF). The grant was awarded on December 27, 2006. The audit period covered transactions from January 19, 2007, through December 15, 2008.

The purpose of the grant was to administer the Civil Legal Services Grant Program and the Poverty Lawyer Loan Assistance Repayment Program. This audit was conducted in response to a request by the OAG. Our overall audit objectives were to ensure that: (a) DCBF complied with applicable laws, regulations, and terms and conditions set forth in the grant agreement; (b) DCBF internal controls over grant funds were adequate to safeguard funds from fraud, waste, and abuse; and (c) the OAG adequately monitored DCBF activities relative to these programs.

CONCLUSIONS

The audit included a review of financial documents related to payroll, administrative functions, and other costs charged to the grant to ensure their reasonableness under the Civil Legal Services Grant Program and the Poverty Lawyer Loan Assistance Repayment Program for the period of January 2007 through December 2008. We concluded that overhead costs charged to the grant by DCBF were reasonable; disbursements and payments of grant funds identified no financial deficiencies between the OAG and DCBF; payroll costs of approximately \$1.3 million paid to 26 of 31 subgrantee lawyers were appropriate; and other expenditures appeared reasonable. However, we did identify four areas in which subgrant requirements were not always met and policies and procedures were not followed.

In our first finding, we identified that auditors or other District oversight bodies do not have a means to verify that the clients served through subgrant agreements meet residency or income requirements or that subgrant agreement requirements for serving a minimum number of clients were met. Access to client records was prohibited because the records are protected by the attorney-client privilege preventing access for audit or other verification purposes. Without having access to client information, there can be no verification that grant funds were used to provide legal services to individuals who were eligible to receive program benefits and that subgrant minimums for clients served were met.

In our second finding, we found that DCBF's Conflict of Interest Policy allowed DCBF Board members and officials with potential conflicts of interest to remain in a Board meeting while review and discussion on subgrantee applications were deliberated and voted on. This policy did not require a written recusal to be completed by those individuals with potential conflicts. We believe that allowing Board members and officials with a potential conflict of interest, in fact or appearance, to remain in a meeting where the award of a subgrant is being discussed

EXECUTIVE DIGEST

may provide the subgrantee an unfair advantage in the award process or otherwise cast doubt on the fairness of the deliberations. Additionally, the OAG/DCBF grant agreement did not address the issue of potential conflicts of interest. We did note that DCBF updated its conflict of interest policy in March 2009, no longer allowing persons with reported potential conflicts to remain in a Board meeting. Also, written recusals are to be prepared by those with potential conflicts of interest.

The third finding centers on the legal guidelines governing eligible law school debt contained in D.C. Code § 1-308.21, which defines eligible law school debt and the District of Columbia Municipal Regulations (DCMR), Title 1, Chapter 24, which addresses the consolidation of eligible debt and loan forgiveness provisions. The D.C. Code and DCMR provide guidance for carrying out the requirements of the Poverty Lawyer Loan Assistance Repayment Program. However, it appears that the laws and regulations lack sufficient specificity as to what constitutes eligible law school debt. Further, we found that the DCBF did not require the applicant to provide, and the lender to certify, detailed and specific loan information in order to determine eligible debt as required by law. Without verifying applicants' eligible debt, DCBF cannot ensure that only eligible debt is forgiven, up to the maximum amount of \$60,000.

Finding four showed that DCBF did not ensure that subgrantees adhered to the requirements contained in their subgrant agreements, which require the development of a plan to train new lawyers and maintain adequate documentation of training received for each lawyer under the Civil Legal Services Grant Program. While we identified that some of the subgrantees did have a training plan developed, we were unable to identify specific training taken by lawyers and the course curriculum used. As a result, the requirements of the subgrant agreements could not be verified and the possibility exists that lawyers may not have received adequate training to provide civil legal services to clients.

SUMMARY OF RECOMMENDATIONS AND MANAGEMENT RESPONSES

We directed 12 recommendations to the OAG that we believe are necessary to correct the deficiencies noted in this report. The recommendations, in part, center on:

- Modifying future Civil Legal Services Grant Program grant agreements to include verbiage requiring clients to sign a consent form that: allows client intake documents to be made available for audit purposes; requires certification by the subgrantee that clients meet established eligibility requirements; and requires certification by the subgrantee that the minimum number of clients have been served.
- Modifying future Civil Legal Services Grant Program grant agreements to define "eligible clients" and establish consistent guidelines for poverty level and residency eligibility;

EXECUTIVE DIGEST

- Establishing a mechanism for the DCBF to notify the OAG of any conflicts of interest, either in fact or appearance, to ensure that the award process of subgrants is fair and equitable.
- Modifying future Civil Legal Services Grant Program grant agreements to include a clause that addresses potential conflicts of interests regarding the DCBF and subgrantees.
- Reviewing current laws and regulations to determine if revisions are needed to clarify eligible law school debt for consolidated loans.
- Requiring DCBF to ensure that loan applicants and lenders provide the required detail and specific educational debt that supports the consolidated educational loan amount due in accordance with D.C. Code §§ 2407.1(b) and (c).
- Requiring DCBF to maintain a record of lawyers participating in the loan repayment program, including a schedule of eligible debt and loan amounts forgiven to ensure that the maximum loan forgiveness amount of \$60,000 is not exceeded.
- Requiring DCBF to ensure that subgrantees adhere to subgrant agreement requirements regarding training and documenting of training files for new lawyers.

Management generally concurred with the recommendations. In many cases, the actions planned and/or taken meet the intent of the recommendations. Among other things, the OAG has agreed to modify future Civil Legal Services Grant Program grant agreements to include clauses to require subgrantees to obtain a client's consent to release necessary information regarding income and residency verification, provide certification by subgrantees that the minimum number of clients have been served, and clearly define eligible law school debt. Additionally, the OAG will review the identified conflict of interest and take appropriate action, as deemed necessary, and will include an ethics clause that addresses conflicts of interest in future grant agreements.

Although none of the recommendations were directed to DCBF and the subgrant recipients included in our audit, they chose to provide comments to the draft report. The full texts of the responses are included at Exhibits C through H. A review of the comments indicates that there are various opinions on the issues of access to client records and what constitutes eligible law school debt. However, the OAG has agreed to modify future grant agreements to clarify these issues.

A summary of the potential benefits resulting from the audit is shown at Exhibit A.

INTRODUCTION

BACKGROUND

The District of Columbia Poverty Lawyer Loan Assistance Repayment Program provides loan repayment assistance to lawyers working in eligible employment. Eligible employment includes non-profit organizations that provide direct civil legal services to low-income or underserved District of Columbia residents. Qualifying organizations (i.e., employers) provide direct legal services to the poor or underserved and are certified by the Attorney General.

The District of Columbia Civil Legal Services Grant Program provides financial assistance to non-profit organizations and individuals who provide direct legal services to low-income residents and legal services to residents living in underserved areas in the District.¹

The Office of the Attorney General (OAG) is responsible for overall administration and oversight of the \$3.2 million grant to administer the Poverty Lawyer Loan Assistance Repayment Program and the Civil Legal Services Grant Program. The OAG issued the grant to the District of Columbia Bar Foundation (DCBF), which serves as the Administrator.

As the Administrator, DCBF is responsible for maintaining effective control and accountability for all grant assets, adequately safeguarding all property, and ensuring that all grant assets are used solely for authorized purposes. DCBF's records must compare the actual and budgeted amounts of expenditures, and be supported by source documentation such as canceled checks, paid bills, and payrolls, as well as contract and award documents. Further, DCBF is required to submit timely programmatic and financial reports to the OAG Grant Officer, per the grant agreement.

DCBF awards subgrants to non-profit organizations to provide civil legal services to low-income District residents. The funds are intended to: (1) increase the number of lawyers to assist District residents in housing-related matters; (2) increase the number of lawyers in underserved neighborhoods in the District; and (3) establish a shared interpreter bank.² In order to accomplish these objectives, DCBF entered into 15 subgrant agreements with 10 non-profit organizations to provide various services to low-income District residents in underserved areas of the city.

DCBF was to award subgrants and disburse funds to subgrantees no later than April 30, 2007, to carry out the requirements of these two grants. DCBF complied with these terms by the required deadline.

¹ Underserved areas relating to the grant agreement include areas that are defined geographically as well as communities that are linked by common language, culture, ethnicity, religion, life situation, or other such factor.

² The interpreter bank provides trained, affordable legal interpreters to the D.C. legal services community in at least six languages as identified by the D.C. Language Access Act.

INTRODUCTION

The grant permits the Administrator to use up to five percent of the grant amounts for reasonable expenses associated with administering the programs. The following is a breakdown of the fund allocations (rounded numbers):

Administrative Cost (5 percent)	\$ 116,000
Poverty Lawyer Loan Repayment Program	\$ 144,000
Civil Legal Services Grant Program	<u>\$ 2,900,000</u>
Total	<u>\$ 3,160,000</u>

Table 1 below identifies the number and name of subgrantees and the corresponding grant award amounts for the fiscal year (FY) 2007 Civil Legal Services Grant Program.

Table 1: Details of Subgrant Awards		
Subgrantee	No. of Subgrants	Award Amount
Bread for the City	3	\$ 337,380
Ayuda	2	\$ 387,834
Legal Aid Society of DC	2	\$ 638,200
Neighborhood Legal Services	2	\$ 674,638
DC Law Students in Court	1	\$ 85,800
Legal Counsel for the Elderly	1	\$ 81,756
Whitman Walker Clinic	1	\$ 120,427
Children’s Law Center	1	\$ 193,031
Women Empowered Against Violence	1	\$ 263,836
University Legal Services	<u>1</u>	<u>\$ 109,329</u>
Total Funds Awarded	<u>15</u>	<u>\$2,892,231</u>

CRITERIA

The FY 2007 Budget Support Act of 2006, effective March 2, 2007, D.C. Law 16-192, requires that the District OAG “award a grant, with funds appropriated through the fiscal year 2007 budget, of no less than \$ 3.2 million to the District of Columbia Bar Foundation (“Bar Foundation”), which shall in turn award grants to nonprofit organizations that deliver civil legal services to low-income people;...” The fund was established by the D.C. Council to provide legal representation for low-income residents in underserved areas of the District of Columbia.

The District of Columbia Poverty Lawyer Loan Assistance Repayment Program Act of 2006 (D.C. Code §§ 1-308.21 -.29.) provides the guidance to be followed by the OAG (and its Administrator) in awarding and disbursing loans to applicants, identifying eligibility requirements, monitoring participant obligations, and establishing roles and responsibilities to be followed to carry out the requirements of the Act.

INTRODUCTION

OBJECTIVES, SCOPE, AND METHODOLOGY

Our audit objectives were to determine whether: (a) DCBF complied with applicable laws, regulations, and terms and conditions set forth in the grant agreement; (b) DCBF had adequate internal controls over grant funds to safeguard funds from fraud, waste, and abuse; and (c) the OAG adequately monitored DCBF activities relative to these programs. Our audit covered the period of January 19, 2007, through December 30, 2008.

To accomplish our objectives, we conducted interviews with responsible OAG and DCBF officials to obtain a general understanding of the processes used for administering and monitoring grants and subgrant agreements. We also reviewed applicable laws, regulations, and policies and procedures governing the use of grant funds. We met with officials of the Children's Law Center, Neighborhood Legal Services, Legal Aid Society, Ayuda, Bread for the City, and Whitman-Walker Clinic to obtain and review financial documents related to payroll, administrative, and other costs charged to the grants reviewed. We also verified overhead costs charged to subgrants to ensure reasonableness. Further, we reviewed payroll costs of \$1.3 million paid to 26 of the 31 lawyers during the subgrantees' performance period to ensure their appropriateness. We also met with officials from the Office of the Chief Financial Officer to review the disbursement of grant funds and the payment process. For the Poverty Lawyer Loan Repayment Program, we reviewed loan amounts to ensure compliance with grant requirements.

We relied on computer-processed data (financial reports) provided to us, which detailed information on grant expenditures. Although we did not perform a formal reliability assessment of the data, we determined that the hard copy documents we reviewed were reasonable and generally agreed with the information contained in the computer-processed data. We did not find errors that would preclude use of the computer-processed data to meet the audit objectives or that would change the conclusions in this report.

Our review identified scope limitations related to our review of client income and residency requirements, number of clients served, and loan details for consolidated debt. Findings 1 and 3 discuss these limitations, related causes, and resulting deficiencies with grant deliverables.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

FINDINGS AND RECOMMENDATIONS

FINDING 1: VERIFICATION OF GRANT ELIGIBILITY REQUIREMENTS
--

SYNOPSIS

Auditors or other District oversight bodies do not have a means to verify that the clients served under the Civil Legal Services Grant meet residency or income requirements. Additionally, we were unable to ensure that attorneys were providing legal services to the number of clients stipulated in the subgrant agreements or providing services to clients in underserved areas. OIG auditors were not allowed access to client case records because the records are protected by attorney-client privilege. Further, subgrantees reported, and we confirmed, that subgrant agreements do not require income or residency verification by the subgrantee. As a result, a scope impairment existed because we were precluded from verifying grant deliverables with regard to providing services to clients in underserved areas, assuring that clients met residency requirements, and determining the number of clients served. Therefore, we could not determine whether grant funds were used to provide legal services to individuals who were eligible to participate in the program, or that services were provided to the number of clients as specified in the subgrant agreement.

DISCUSSION

As part of our audit of the Civil Legal Services Grant eligibility requirements, we asked to review client files to determine if documentation existed to support income and eligibility requirements. Subgrantee officials first explained that the subgrant agreement does not require an income or residency verification. These officials further cited Article V “Performance Monitoring” of the grant agreement between the OAG and the DCBF, which states: “The DCBF shall not be required to provide client records that are protected by the attorney client privilege to the Grant Administrator.”

Related Prior Case Law

Although we were unable to identify any District cases directly addressing this issue, research into the matter of attorney-client privilege identified a relevant court case issued by the Supreme Court of New Jersey on July 17, 1986. This particular case contained a review of an opinion of the New Jersey Advisory Committee on Professional Ethics. In short, the Advisory Committee on Professional Ethics ruled that the disclosure of information requested by private or public funding entities does not violate the confidences of its clients and that the information requested would not violate client secrets or confidences. On review, the Supreme Court of New Jersey reversed the decision. The court concluded that client-identifying data with respect to persons receiving legal assistance from the appellant legal services organization constituted a matter clearly covered by the Rules of Professional Conduct as information relating to representation. The court held that such material was also

FINDINGS AND RECOMMENDATIONS

covered under the attorney-client privilege as information in the nature of client secrets that could be embarrassing or detrimental to the client, if revealed. Thus, the court ruled that under these strictures, it would be improper to reveal such information to either public or private funding sources in the absence of valid consent or reasonable rules clearly requiring such disclosure for legitimate purposes.

Citing the attorney-client privilege, DCBF and subgrantees did not provide OIG auditors with client case records to allow our auditors to verify income and residency eligibility of clients that received civil legal services or ensure that attorneys were providing legal services to clients in underserved areas as stipulated in subgrant agreements. However, as previously noted, the OAG could require clients to sign a consent form allowing for the release of intake documents for legitimate purposes. We believe such legitimate purposes include the performance of audits to account for the expenditure of grant funds or otherwise establish compliance with the terms of the grant agreement.

Alternative Procedures to Determine Eligibility

We attempted but were unsuccessful in using alternative procedures to determine whether the subgrantees served the required number of clients and that the clients met eligibility standards. We interviewed subgrantee officials, and one official informed us that the subgrantee agreement does not require verification of income or residency eligibility. In addition, other subgrant officials informed us that they do not require proof of residency or income validation during the intake process. Rather, subgrantee officials believed a client's self-reporting of his/her Temporary Assistance for Needy Families (TANF) or Supplemental Security Income (SSI) benefits, or residence in government subsidized housing to be sufficient proof of eligibility. While a person who receives such benefits or participates in such federal programs may lead one to infer that the client meets the requirements, we believe that eligibility requirements should be documented and verified by obtaining copies of documents issued by proper authorities, rather than by verbal confirmation from clients. In regard to the issue of the number of clients served, subgrantee responses again pointed to attorney-client privilege restrictions on access to these records.

Review of Subgrant Agreement Requirements

We reviewed the subgrant agreements and did not find any requirement for subgrantees to verify income or residency before obtaining legal services. We advised OAG officials that the subgrant agreements were silent on the requirement for verifying income and residency requirements. We also informed the OAG that DCBF subgrantees had established various and inconsistent income guidelines to verify income eligibility of potential clients. Further, we noted that subgrantees did not verify income requirements at the time of application, but did so once the case was accepted and assigned to a lawyer.

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When the grant was awarded, the grant agreement did not identify specific income levels for clients, but generally stated that grant funds were to provide services to low-income residents of the District of Columbia. Our review identified that, although subgrantees did verify income limits, they used various methods to compute them. For example, one subgrantee used the federal definition of low-income to determine eligibility,³ while another subgrantee used 200 percent of the federal poverty guidelines. We were told that these federal guidelines were based on client exceptions such as handicap status, nursing home residence, or residence in underserved areas.

OAG officials stated that they had no statutory authority to require the use of the federal guidelines for determining poverty level, but agreed that a consistent standard should be identified in subgrant agreements and used by all subgrantees. Further, we believe that documents must be obtained to verify that these requirements were met and that each subgrantee should provide certification of that fact.

RECOMMENDATIONS:

We recommend that the Attorney General, Office of the Attorney General:

1. Modify future Civil Legal Services Grant Program grant agreements to include a clause that requires clients receiving legal services to sign a consent form that allows client intake documents to be made available for audit purposes.

OAG RESPONSE

The OAG agrees with the recommendation. The OAG will include language in the Fiscal Year (FY) 2010 grant agreement that requires DCBF to include provisions in subgrant agreements that require subgrantees to obtain a client's consent to release necessary information regarding income and residency verification. The full text of the OAG's response is included at Exhibit B.

OIG COMMENT

We consider actions planned by the OAG to be responsive to the recommendation.

2. Modify future Civil Legal Services Grant Program grant agreements to define the term "eligible clients" and establish consistent guidelines for determining poverty level and residency eligibility.

³ Federal guidelines define low-income as at or below 125 percent of the federal poverty guidelines (an income of \$27,563 per year for a family of four).

FINDINGS AND RECOMMENDATIONS

OAG RESPONSE

The OAG agrees that standards need to be established and will work with DCBF to develop such standards. Once developed, the OAG intends to include the definitions and criteria in its FY 2010 grant agreement with DCBF. The full text of the OAG's response is included at Exhibit B.

OIG COMMENT

We consider actions planned by the OAG to be responsive to the recommendation.

We recommend that the Attorney General, Office of the Attorney General:

3. Modify future Civil Legal Services Grant Program grant agreements to require the Administrator (DCBF) to include District residency and income eligibility requirements in the subgrant agreements and further certify that clients meet those eligibility requirements.

OAG RESPONSE

The OAG plans to include provisions in the FY 2010 grant agreement that requires DCBF to verify and certify that only eligible clients were served using grant funds. The full text of the OAG's response is included at Exhibit B.

OIG COMMENT

We consider actions planned by the OAG to be responsive to the recommendation.

We recommend that the Attorney General, Office of the Attorney General:

4. Modify future Civil Legal Services Grant Program grant agreements to include a clause that requires certification by subgrantees that the minimum number of clients have been served.

OAG RESPONSE

OAG will include provisions in the FY 2010 grant agreement that require DCBF to include adequate provisions in subgrant agreements that require subgrantees to report quarterly the number of eligible clients served and the type of service provided; that DCBF certify the information provided to OAG, and also require DCBF to report quarterly on the progress subgrantees are making in meeting its performance requirements. The full text of the OAG's response is included at Exhibit B.

OIG COMMENT

We consider actions planned by the OAG to be responsive to the recommendation.

FINDINGS AND RECOMMENDATIONS

FINDING 2: CONFLICT OF INTEREST IN THE AWARD OF GRANT FUNDS
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SYNOPSIS

DCBF's Conflict of Interest Policy in effect in 2007 and 2008 allowed DCBF Board members and officials with potential conflicts of interest to remain in a Board meeting while subgrantee applications were deliberated and voted on. Further, this policy did not require a written recusal to be completed by those individuals with potential conflicts. As a result, in our review of four subgrantee awards involving potential conflicts of interest, we identified one subgrant that was awarded in the amount of \$120,427 to a subgrantee with whom a Board member reported a potential conflict of interest and the Board member was present at the meeting at which the Board approved the award.

Of note, DCBF updated its Conflict of Interest Policy on March 3, 2009. Under the new policy, DCBF no longer allows persons with reported conflicts to remain in a Board meeting when the related subgrantee application is discussed and voted on. The policy also includes a requirement for written recusals to be prepared by those with reported conflicts of interest. However, in addition to the revised policy, we believe that some additional changes are needed. For example, we noted that the grant agreement between the OAG and DCBF does not address ethics or conflict of interest issues.

DISCUSSION

On March 20, 2007, the DCBF held a board meeting to discuss proposals received for subgrants from the funds provided under the Civil Legal Services Grant Program. During the course of discussions, three members of the DCBF Board and a DCBF official identified potential conflicts of interest with certain applicants. The conflicts ranged from a director having a spouse on the board of a subrecipient organization to a DCBF official that had a personal relationship with the executive officer of a non-profit organization affiliated with a subrecipient whose application was under consideration. These persons identified their conflicts of interest to the DCBF members verbally at the Board meeting and did not vote on the applications in question. However, they were allowed to remain in the Board meeting while the vote was taken to determine subgrantee awards. We noted that one subgrant was awarded for \$120,427 to a subgrantee with whom a Board member reported as having a potential conflict of interest, and the Board member remained in the meeting during approval of the award.

Our review of DCBF's Conflict of Interest Policy (Policy), originally dated and adopted on December 7, 2005, did not require a written recusal or other certification for instances of conflict of interest pertaining to its subgrantees; however, it did require that each director or officer of the foundation disclose to the Board of Directors any actual or potential conflict

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of interest prior to any consideration of the proposed transaction by the Board. Lastly, page 1 of the Policy states: “The director or officer having the conflict shall not participate in the deliberation or decision regarding the matter under consideration, and shall retire from the room during the deliberation and vote, unless requested by a majority of the disinterested directors to remain in the room.” Allowing these officials to remain in the Board meeting during the vote to determine an award could have influenced the vote of the other Board members, and therefore, given the subrecipients in question an unfair advantage or otherwise cast doubt on the fairness of the deliberations.

Additionally, we noted that the grant agreement between OAG and DCBF does not address ethics or potential conflicts of interest. We believe that at a minimum, the OAG should amend the grant agreement to require that DCBF inform the OAG of subgrant awards that may involve subrecipients with potential conflicts of interest.

New Conflict of Interest Policy

In March 2009, DCBF adopted a new conflict of interest policy that addressed the issues raised in this finding. The new policy requires that Covered Persons (Board members, officials, and staff) disclose, in writing, the existence and circumstances of a potential conflict to the Chair of the DCBF Audit Committee, with a copy to the DCBF’s Executive Director; refrain from using personal influence to encourage DCBF to enter into a Covered Transaction (transactions involving DCBF and covered person, family member, or affiliated entity); and physically excuse himself or herself from participation in any discussions regarding the Covered Transaction. The Policy also requires Covered Persons to annually complete DCBF’s “Conflict of Interest Questionnaire” and update it as necessary.

RECOMMENDATIONS

We recommend that the Attorney General, Office of the Attorney General:

5. Review the subgrant award by DCBF to determine the effect of the identified conflict of interest and take appropriate action, as deemed necessary.

OAG RESPONSE

The OAG accepts the recommendation and plans to take specific action by October 1, 2009. The full text of the OAG’s response is included at Exhibit B.

OIG COMMENT

We consider actions planned by the OAG to be responsive to the recommendation.

FINDINGS AND RECOMMENDATIONS

We recommend that the Attorney General, Office of the Attorney General:

6. Amend the grant agreement to require that DCBF inform the OAG of any conflicts of interest, either in fact or appearance.

OAG RESPONSE

The OAG accepts the recommendation and will take specific action in the FY 2010 grant agreement. The full text of the OAG's response is included at Exhibit B.

OIG COMMENT

We consider actions planned by the OAG to be responsive to the recommendation.

We recommend that the Attorney General, Office of the Attorney General:

7. Modify future grant agreements between the OAG and DCBF to include an ethics clause addressing conflicts of interest.

OAG RESPONSE

The OAG accepts the recommendation and will include an ethics clause that addresses conflicts of interest in future grant agreements. The full text of the OAG's response is included at Exhibit B.

OIG COMMENT

We consider actions planned by the OAG to be responsive to the recommendation.

FINDINGS AND RECOMMENDATIONS

FINDING 3: POVERTY LAWYER LOAN ASSISTANCE PROGRAM
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SYNOPSIS

The definition of “eligible debt” as stated in the District of Columbia Code and regulations need to be reviewed and clarified as to what constitutes eligible law school debt allowable for loan assistance under the Poverty Lawyer Loan Repayment Assistance Program. As currently written, it appears that various interpretations of the code and regulations could be made regarding eligible law school debt, including the consolidation of undergraduate debt preceding entry into law school.

While the D. C. Municipal Regulations (DCMR) allow for consolidating undergraduate and graduate school loans to be used in calculating eligible debt, it also requires that detailed and specific loan data be submitted by applicants for use in determining eligible debt. We found that DCBF allowed consolidated debt to be included as eligible debt without obtaining sufficient detailed debt information to enable one to verify the details of the applicant’s educational debt. Further, DCBF did not maintain a schedule of lawyers participating in the loan repayment program and the corresponding loan amounts and loan details for each lawyer to ensure that the maximum loan forgiveness limit of \$60,000 was not exceeded. Without a methodology for monitoring loan repayment program participation, loan forgiveness amounts could exceed the maximum allowable limit of \$60,000.

DISCUSSION

"Eligible debt" is defined by D.C. Code § 1-308.21(5) (2006) as “outstanding principal, interest, and related expenses from loans obtained for reasonable educational expenses associated with obtaining a law degree made by government and commercial lending institutions or educational institutions but not loans extended by a private individual or group of individuals, including families.” Title 1 DCMR Chapter 24 sets forth implementation regulations for the Poverty Lawyer Loan Repayment Assistance Program.

Title 1 DCMR §2403.6 states:

If a participant has consolidated eligible debt with undergraduate or graduate school loans from government, commercial, or educational institutions, the Administrator and the participant may treat the full amount of consolidated loan payments first coming due as eligible debt, up to the total amount of eligible debt owed, for the purposes of awarding and receiving loan repayment assistance under the Program.

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Further, 1 DCMR, § 2407.1(b) requires loan information forms to include specific information about the applicant's educational debt. Also, Section 2407.1(c) requires: "Lender Certification Forms, completed by the applicant and the lender, that verify the details of the applicant's educational debt."

We believe that the D.C. Code and regulations define eligible debt in broad terms and lack the necessary specificity to exclude debt and loan amounts paid for items not directly associated with educational needs or otherwise represent debt associated with obtaining a law school education. If the law's intent is to include any debt held by law students, incurred at the undergraduate, graduate, and law school levels on a consolidated basis, as eligible for reimbursement under the Poverty Lawyer Loan Assistance Repayment Emergency Act of 2006, it would appear that the law, as written, fulfills that intent. However, if the law's intent is to set limits on eligible debt reimbursement (other than the limits already pronounced in the Act for loans from private parties or family members), there would appear to be a need to develop more definitive guidelines for certain loans such as personal loans, mortgage or equity loans, automobile loans, loans to liquidate credit card balances or consolidation loans, etc.

The need to clarify eligible debt, particularly in terms of what constitutes eligible consolidated debt, takes on added importance because DCMR § 2403.6 allows for the Administrator and the participant to treat the full amount of consolidated loan payments first coming due as eligible debt, up to the total amount of eligible debt owed, for the purposes of awarding and receiving loan repayment assistance under the program.

Documentation and Support for Consolidated Educational Debt

Our review of the loan files for the 28 lawyers who received loans during the period of our review found that 18 of them had consolidated debt used to determine their loan amounts. During our review, we found that the application forms, required to be completed by the applicants, did not always include the necessary information, such as the name of schools and dates attended. Additionally, the lender certification forms did not provide lender certifications that provided details of the students' consolidated educational debt. While consolidated debt is allowed, it is important to note that the DCMR requires the applicant to submit loan information that details the applicant's educational debt, and that the applicant and lender complete a "Lender Certification Form" that provides the details of the applicant's educational debt. We believe the purpose of these requirements is to permit verification of the eligible debt and ensure that applicant's consolidated loan payments first coming due, relate only to eligible debt. These details should be used to separate eligible debt from ineligible debt.

We also noted that DCBF did not account for the lawyers participating in the loan program, including the identification of eligible debt and loans made to each lawyer to ensure that the

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loan forgiveness amounts were monitored and the \$60,000 maximum amount was not exceeded. Recognizing that this is the first year of the grant award and that payments will extend for several years into the future as more loans are made, it is important to have a mechanism to track loans made and related payments to date.

RECOMMENDATIONS

We recommend that the Attorney General, Office of the Attorney General:

8. Clarify what constitutes allowable educational expenses associated with obtaining a law degree for purposes of determining eligible law school debt.

OAG RESPONSE

The OAG's opinion is that the current statute and regulations are clear that eligible debt is for law school tuition and expenses and does not include undergraduate and graduate school debt as eligible for loan repayment assistance. The OAG plans to amend the DCMR, chapter 24 to clarify the definition by December 1, 2009. The full text of the OAG's response is included at Exhibit B.

OIG COMMENT

We consider actions planned by the OAG to be responsive to the recommendation.

We recommend that the Attorney General, Office of the Attorney General:

9. Require DCBF to develop procedures to ensure that the loan applicants and lenders provide the required details on loans included in consolidated debt in accordance with 1 DCMR §§ 2407.1(b) and (c) in order to identify eligible law school debt.

OAG RESPONSE

The OAG accepts the recommendation and plans to provide necessary provisions in the FY 2010 grant agreement. The full text of the OAG's response is included at Exhibit B.

OIG COMMENT

We consider actions planned by the OAG to be responsive to the recommendation.

FINDINGS AND RECOMMENDATIONS

We recommend that the Attorney General, Office of the Attorney General:

10. Require DCBF to create a file/database for lawyers participating in the Poverty Lawyer Loan Repayment Assistance Program that identifies the participating lawyer and identifies:
 - a. the amount of eligible debt allowed for loan forgiveness, up to \$60,000;
 - b. the annual loan payments made and the amount of loan debt forgiven annually;
and
 - c. the remaining debt loan balance eligible for loan forgiveness.

OAG RESPONSE

The OAG accepts this recommendation and plans to provide appropriate provision in the FY 2010 grant agreement. The full text of the OAG's response is included at Exhibit B.

OIG COMMENT

We consider actions planned by the OAG to be responsive to the recommendation.

FINDINGS AND RECOMMENDATIONS

FINDING 4: REVIEW OF LAWYER TRAINING FILES

SYNOPSIS

Subgrantees were unable to provide adequate documentation to demonstrate that new attorneys hired under the Civil Legal Services Grant Program subgrant agreements with DCBF received the required training. While some of the subgrantees did have a training plan, we were unable to determine whether the subgrantees implemented that plan. There was no documentation provided by subgrantees to demonstrate newly hired attorneys attended specific training courses. As a result, training requirements of the subgrant agreements could not be verified and the possibility exists that attorneys may not have received adequate training to carry out their responsibilities in providing civil legal services to clients.

DISCUSSION

An effective training program is essential to ensure personnel are able to conduct their job duties as required not only by their performance plan but also professional standards. Typically, employees who possess a certification or license that allows them to conduct work of a professional nature are also held to standards that require adequate training. In addition, sound and widely-held business practices provide for organizations to have training programs and maintain detailed records of training for personnel in general.

In its subgrant agreements, DCBF included a performance measure clause that requires the subgrantee to develop and implement a clear plan for training new attorneys and providing them with training. In order to develop a training plan for its attorneys, the subgrantees would have to evaluate the training needs of its attorneys. While education and other related certifications reported on applications and resumes were reviewed, there was no indication that specific courses germane to all attorneys were used to develop and implement their plan. Further, subgrantees did not maintain copies of certificates received by the attorneys for completion of in-house or outside courses, and did not record this information in an established database or record file. Also, subgrantees did not establish methods to track attorney training. Using resources on hand, subgrantees could make use of Microsoft Excel and Word software applications to maintain training databases.

We conducted test work at four subgrantee locations, which included review of training records. None of the subgrantees tested were able to provide us with sufficient and competent documentation to support the training requirement of the subgrant agreements. We found that subgrantee records for newly-hired attorneys did not identify courses taken by

FINDINGS AND RECOMMENDATIONS

each attorney, or other information about the instructor (credentials or experience), instructor evaluation sheets, or evidence of student testing and attendance.

RECOMMENDATION

We recommend that the Attorney General, Office of the Attorney General:

11. Require DCBF to ensure subgrantees establish controls to adhere to subgrant agreement requirements for training and design an individual development plan for new attorneys, taking into consideration individual training needs, minimum training requirements, and career development.

OAG RESPONSE

The OAG accepts the recommendation and will require DCBF to include adequate provisions in all subgrant agreements that require training. The full text of the OAG's response is included at Exhibit B.

OIG COMMENT

We consider actions planned by the OAG to be responsive to the recommendation.

We recommend that the Attorney General, Office of the Attorney General:

12. Establish training files for attorneys, to include training dates, syllabus, curriculum, and instructor information; certificates of completion; and other relevant information.

OAG RESPONSE

OAG accepts the recommendation. Through the FY 2010 grant agreement, the OAG will require DCBF to include adequate provisions in subgrant agreements where subgrantee is required to provide training. The full text of the OAG's response is included at Exhibit B.

OIG COMMENT

We consider actions planned by the OAG to be responsive to the recommendation.

**EXHIBIT A: SUMMARY OF POTENTIAL BENEFITS
RESULTING FROM AUDIT**

Recommendations	Description of Benefit	Amount and Type of Benefit	Agency Reported Estimated Completion Date	Status¹
1	Compliance. Modifies future the Civil Legal Services Grant Program grant agreements requiring clients to sign a consent form that allows client intake documents to be made available for audit purposes.	Non-Monetary	October 1, 2009	Closed
2	Compliance. Modifies future Civil Legal Services Grant Program grant agreements to define “eligible clients” and establishes consistent guidelines for determining poverty level and residency eligibility.	Non-Monetary	October 1, 2009	Closed
3	Compliance. Modifies future Civil Legal Services Grant Program grant agreements to require the Administrator to include in the subgrant agreements District residency and income eligibility requirements and further certify that clients meet eligibility requirements.	Non-Monetary	October 1, 2009	Closed
4	Compliance. Modifies future Civil Legal Services Grant Program grant agreements to have subgrantees certify that they have served the minimum number of clients required by the subgrant agreement.	Non-Monetary	October 1, 2009	Closed

¹ This column provides the status of a recommendation as of the report date. For final reports, “Open” means management and the OIG agree on the action to be taken, but is not complete. “Closed” means management has advised that the action necessary to correct the condition is complete. If a completion date was not provided,

**EXHIBIT A: SUMMARY OF POTENTIAL BENEFITS
RESULTING FROM AUDIT**

Recommendations	Description of Benefit	Amount and Type of Benefit	Agency Reported Estimated Completion Date	Status
5	Compliance. Determines the effect of the identified conflict of interest and takes appropriate action, as deemed necessary.	To Be Determined	October 1, 2009	Closed
6	Program Efficiency. Establishes a mechanism for notifying the OAG of any conflicts of interest, either in fact or appearance, to ensure that the award process of subgrants is fair and equitable.	Non-Monetary	October 1, 2009	Closed
7	Program Efficiency. Modifies future grant agreements between the OAG and the Administrator (DCBF) to include an ethics clause addressing conflicts of interest.	Non-Monetary	October 1, 2009	Closed
8	Compliance. Clarifies what constitutes allowable educational expenses in order to determine eligible law school debt.	Non-Monetary	December 1, 2009	Closed
9	Compliance. Requires development of procedures requiring that loan applicants and lenders provide the details on consolidated educational debt and certifications in accordance with 1 DCMR §§ 2407.1(b) and (c).	Non-Monetary	October 1, 2009	Closed

the date of management's response is used. "Unresolved" means that management has neither agreed to take the recommendation action nor proposed satisfactory alternative actions to correct the condition.

**EXHIBIT A: SUMMARY OF POTENTIAL BENEFITS
RESULTING FROM AUDIT**

Recommendations	Description of Benefit	Amount and Type of Benefit	Agency Reported Estimated Completion Date	Status
10	<p>Program Efficiency. Requires DCBF to create a file/database for lawyers participating in the loan program that identifies:</p> <ul style="list-style-type: none"> a. the amount of eligible debt allowed for loan forgiveness, up to \$60,000; b. the annual loan payments made and forgiven annually; and c. the remaining eligible debt balance for which the individual can apply for loan forgiveness. 	Non-Monetary	October 1, 2009	Closed
11	<p>Program Efficiency. Designs an individual development plan for new lawyers, taking into consideration individual training needs, minimum training requirements, and career development.</p>	Non-Monetary	October 1, 2009	Closed
12	<p>Program Efficiency. Establishes training files for new lawyers, to include training dates; syllabus, curriculum, and instructor information; certificates of completion; and other relevant information.</p>	Non-Monetary	October 1, 2009	Closed

EXHIBIT B: OAG RESPONSE

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



2009 AUG 25 AM 3 47



ATTORNEY GENERAL

August 25, 2009

Mr. Charles J. Willoughby
Inspector General
717 14th Street, N.W.
Washington, D.C. 20005.

Re: OIG Draft Report No. 09-2-06CB -- Audit of the Grant Agreement Between the Office of the Attorney General and the District of Columbia Bar Foundation

Dear Mr. Willoughby:

Thank you for sending me your draft report summarizing the results of the Office of the Inspector General's (OIG's) Audit of the Grant Agreement Between the Office of the Attorney General and the District of Columbia Bar Foundation. Please accept the following responses to your recommendations for inclusion in the final report.

Recommendation 1: Modify future Civil Legal Services Grant Agreements to include a clause that requires clients receiving legal services to sign a consent form that allows client intake documents to be made available for audit purposes.

Response 1: The Office of the Attorney General (OAG) agrees that the District of Columbia Bar Foundation (DCBF), OAG, and program auditors should have access to sufficient information about the clients served by subgrantees to allow these entities to independently verify whether the clients are eligible to receive services using grant funds. OAG will include a provision in its Fiscal Year (FY) 2010 grant agreement with the DCBF that will facilitate access to this information. Specifically, OAG will require the DCBF to include a provision in each subgrant agreement that requires the subgrantee to obtain each client's consent to the release of income and residency information to appropriate individuals for the purpose of establishing and verifying the client's eligibility for services. Our target date for execution of the FY 2010 grant agreement is October 1, 2009.

Recommendation 2: Modify future Civil Legal Services Grant Agreements to define the term "eligible clients" and establish consistent guidelines for determining poverty level and residency eligibility.

EXHIBIT B: OAG RESPONSE

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Response 2: OAG agrees standards are needed to guide the DCBF's and subgrantees' determinations of whether clients qualify as District residents and are either low-income or underserved. OAG will work with the DCBF to establish definitions and eligibility criteria that appropriately capture the universe of needy individuals that should be eligible for services under the grant. OAG will include these definitions and criteria in its FY 2010 grant agreement with the DCBF and require the DCBF to include them in its subgrant agreements with service providers.

Recommendation 3: Modify future Civil Legal Service Grant Agreements to require the Administrator (DCBF) to include District residency and income eligibility requirements in subgrant agreements and further certify that clients meet those eligibility requirements.

Response 3: See Response 2. OAG will include a provision in the FY 2010 Grant Agreement that requires the DCBF to verify and certify to OAG that only eligible clients were served using grant funds.

Recommendation 4: Modify future Civil Legal Service Grant Agreements to include a clause that requires certification by subgrantees that the minimum number of clients have been served.

Response 4: The minimum number of clients that a subgrantee is required to serve is established by the DCBF through performance requirements included in the subgrant agreements. These performance requirements are based on the subgrantee's representations in its grant proposal and the DCBF's assessment of such factors as the subgrantee's capacity, the anticipated complexity of the service, and client demand. In the past, circumstances have, at times, made it difficult for subgrantees to meet their performance requirements, including, for example, vacancies in subgrant funded attorney positions, issues with office space, etc. In these situations, the subgrantee may not be able to provide a certification that it served the required number of District residents. If this occurs, or appears likely to occur later in the program year, it is the DCBF's responsibility as grantee to work with the subgrantee to address the deficiency and to require appropriate corrective action. The DCBF should also consider a subgrantee's failure to meet its performance requirements in assessing any requests from the subgrantee for future funding.

In our view, OAG's role in monitoring this aspect of the grant includes reviewing the progress of the subgrantees in meeting their performance measures, as reported by the DCBF, and ensuring that the DCBF takes appropriate steps to address any shortfalls in subgrantee performance. To this end, OAG will include provisions in the FY 2010 grant agreement that: a) require the DCBF to include a provision in each subgrant agreement that requires the subgrantee to report quarterly on the number of eligible clients served and the type of service provided; b) require the DCBF to certify this information to OAG; and c) require the DCBF to report quarterly on the progress each subgrantee is making in meeting its performance requirements and the DCBF's own efforts to require corrective action or assist any underperforming subgrantee in addressing any deficiency.

EXHIBIT B: OAG RESPONSE

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Recommendation 5: Review the subgrant award by DCBF to determine the effect of the identified conflict of interest and take appropriate action as deemed necessary

Response 5: OAG accepts this recommendation and will take the specified action by October 1, 2009.

Recommendation 6: Amend the grant agreement to require the DCBF to inform the OAG of any conflicts of interest, either in fact or appearance.

Response 6: OAG accepts this recommendation and will take the specified action in conjunction with the execution of the FY 2010 grant agreement.

Recommendation 7: Modify future grant agreements between the OAG and DCBF to include an ethics clause addressing conflicts of interest.

Response 7: OAG accepts this recommendation and will include an ethics clause addressing conflicts of interest in the FY 2010 grant agreement.

Recommendation 8: Clarify what constitutes allowable educational expenses associated with obtaining a law degree for purposes of determining eligible law school debt.

Response 8: In OAG's view, the statute and regulations are clear that eligible debt is associated with law school tuition and expenses and that undergraduate and graduate school debt are not eligible for loan repayment assistance. However, OAG has no objection to clarifying the definition and will do so by amending the program rules in 1 DCMR, Chapter 24. Our target date for completing this revision is December 1, 2009.

Recommendation 9: Require DCBF to develop procedures to ensure that the loan applicants and lenders provide the required details on loans included in consolidated debt in accordance with 1 DCMR § 2407.1(b) and (c) in order to identify eligible law school debt.

Response 9: OAG accepts this recommendation and will include an appropriate provision in the FY 2010 grant agreement.

Recommendation 10: Require DCBF to create a file/database for lawyers participating in the Poverty Lawyer Loan Repayment Assistance Program that identifies the participating lawyer and identifies:

- a. the amount of eligible debt allowed for loan forgiveness, up to \$60,000;
- b. the annual loan payments made and the amount of loan debt forgiven annually;
and
- c. the remaining debt loan balance eligible for loan forgiveness.

EXHIBIT B: OAG RESPONSE

Mr. Charles J. Willoughby
August 25, 2009
Page 4

Response 10: OAG accepts this recommendation and will include an appropriate provision in the FY 2010 grant agreement.

Recommendation 11: Require DCBF to ensure subgrantees establish controls to adhere to subgrant agreement requirements for training and design an individual development plan for new attorneys, taking into consideration individual training needs, minimum training requirements, and career development.

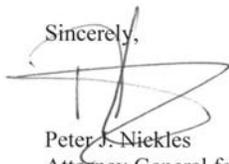
Response 11: OAG accepts this recommendation and, through the FY 2010 grant agreement, will require DCBF to include appropriate provisions in all subgrant agreements in which the subgrantee is required to provide training.

Recommendation 12: Establish training files for attorneys to include training dates; syllabus, curriculum, and instructor information; certificates of completion; and other relevant information.

Response 12: OAG accepts this recommendation and, through the FY 2010 grant agreement, will require DCBF to include appropriate provisions in all subgrant agreements in which the subgrantee is required to provide training.

Thank you for the opportunity to respond to the recommendations contained in your report. Please contact me on (202) 724-3400 if you require any additional information.

Sincerely,



Peter J. Nickles
Attorney General for the District of Columbia

PJN/lac

EXHIBIT C: DCBF RESPONSE

THE DISTRICT OF COLUMBIA BAR FOUNDATION

FOUNDING LEGAL SERVICES FOR THOSE IN NEED

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September 10, 2009

Charles J. Willoughby, Inspector General
Office of the Inspector General
717 – 14th Street, NW
Washington, DC 20005

**Re: Response to OIG Draft Report of Audit of the Grant Agreement
Between the Office of the Attorney General and the District of Columbia
Bar Foundation, OIG No. 09-2-06-CB**

Dear Mr. Willoughby:

The DC Bar Foundation appreciates the opportunity to review and comment on the draft OIG audit report of the grant agreement between the OAG and the DC Bar Foundation. We understand and support the fundamental purpose of the audit of this grant, and the assurance it provides that the grant is serving the public purposes of the District and its people, notably including the legal needs of the District's most vulnerable citizens.

We have analyzed the draft and have a number of concerns with it, which are discussed in detail in the attached comment memorandum. To summarize our principal comments:

1. We are gratified by OIG's most fundamental conclusion that the Foundation and the subgrantees are in financial compliance with the grant and subgrant agreements; and that the costs, disbursements and payments of grant funds were reasonable. The audit results assure the OAG and other interested District officials that the second objective of the audit (i.e., that "DCBF internal controls over grant funds were adequate to safeguard funds from fraud, waste and abuse") has been met.
2. The audit also demonstrates that "DCBF complied with applicable laws, regulations and terms and conditions set forth in the grant agreement" in satisfaction of the first audit objective. The grant agreement contains ten specific performance measures identifying the deliverables that Bar Foundation was responsible for under the agreement. The Foundation met all ten performance measures, and OIG does not find otherwise.
3. In two of its findings (i.e., Finding 1: Verification of Grant Eligibility requirements; and Finding 3 – Poverty Lawyer Loan Assistance Program), OIG has concluded that the applicable laws, regulations and terms and conditions set forth in the grant agreement do not give OIG the ability to verify certain information that OIG believes should be verified, which OIG judges to be a "scope impairment" and a "program deficiency." To address these concerns, the

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EXHIBIT C: DCBF RESPONSE

OIG has offered recommendations that would redesign the grant process, based on a disagreement with, or an imperfect understanding of, the District's legal system, the legal services network in DC, and the professional responsibility obligations that the D.C. Court of Appeals imposes on members of the D.C. Bar, and that would undermine some of the basic protections afforded to clients in our legal system.

For example, the recommendation that OIG have direct access to the client files maintained by the subgrantees is antithetical to the client confidentiality properly due and owing to these clients (some of whom will be in legal controversies with the District) under the DC Rules of Professional Conduct for lawyers. To put it simply, implementation of this recommendation would make the grant program unacceptable to many legal services providers and/or the DC residents who are their clients, and would thwart the will of the Council in providing the grant.

In making this appropriation, the City Council specifically did not elect to create a District-run legal services network or grants agency, or to establish granular requirements for the subgrantees. Instead, it chose to take advantage of the vibrant community of dedicated and capable legal services providers already working in the District, and the DCBF's "demonstrated history of expertise and experience in making grants to nonprofit organizations that deliver those services." The OIG should not remake the grant process with which the Council was satisfied, in the interest of audit objectives.

4. A number of the recommendations for Findings 1 and 3 and for Finding 2 – Conflict of Interest Policy and Finding 4 – Review of Lawyer Training Files are unnecessary because they are founded on factual error. For example, contrary to the draft findings:

- Subgrantees maintain and can provide aggregate data about the number of clients they served under the FY07 grants.
- Subgrantees verify that their clients are "low income," "underserved," or both, often in the same manner as the DC public schools verify eligibility for free and reduced lunch programs.
- The Bar Foundation maintains conflicts of interest policies and practices, and the grants administered by the Foundation were not influenced by improper conflicts.
- The Foundation maintains materials and records, including in database form, for the Poverty Lawyer Loan Assistance Repayment Program (LRAP) that satisfy in all respects the regulations for that program.
- Subgrantees that had a training condition in their subgrant maintain substantial records of the training they provided pursuant to the subgrant agreements to lawyers serving the poor (albeit not always in the database form OIG would prefer).

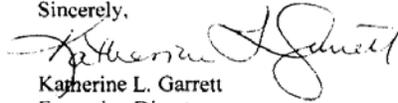
5. We are mindful of the challenges faced by the OIG in conducting its first audit of this grant program, without either

EXHIBIT C: DCBF RESPONSE

- Standards to measure the Bar Foundation's performance apart from the legislation, LRAP regulations, and grant agreement, or
- Any guidance in generally accepted government accounting standards for reviewing the delivery of legal services.

We believe five of the twelve recommendations in the draft report (specifically, Recommendations 4, 6, 7, 10, and 12) can with refinement be implemented in a manner that comports with the Council's purposes and the OIG's audit objectives. Our detailed comments provide suggestions to accomplish those improvements.

Sincerely,



Katherine L. Garrett
Executive Director

EXHIBIT C: DCBF RESPONSE

THE DISTRICT OF COLUMBIA BAR FOUNDATION

FUNDING LEGAL SERVICES FOR THOSE IN NEED

MEMORANDUM

TO: Charles J. Willoughby, Inspector General
FROM: Katherine L. Garrett, Executive Director 
DATE: September 10, 2009
RE: **DCBF Detailed Response to OIG Draft Report of the Audit of the Grant Agreement Between the Office of the Attorney General and the District of Columbia Bar Foundation**

The DC Bar Foundation has reviewed and analyzed the findings and recommendations in the draft OIG Report. We are pleased that the OIG has concluded that DCBF and its subgrantees are in financial compliance with the grant and subgrant agreements, and that costs, disbursements, and payments of grant funds were reasonable. We do, however, have a number of concerns with the four findings in the draft report, and the recommendations that follow these findings. Several of the recommendations -- 4, 6, 7, and 10, -- are based on actions implemented DCBF in FY07; several, including recommendation 12, offer OIG's suggestions for the program that, although not required by any law, regulation, or agreement, could be implemented if reworded. As redrafted, below, DCBF could accept these recommendations. The remaining recommendations should be stricken.

As a preliminary matter we note that the OIG quite candidly advised DCBF at the outset that it had no standards that it was using to measure DCBF's performance apart from the legislation, LRAP regulations, and grant agreement. The grant agreement contains 10 specific performance measures identifying the deliverables that DCBF was responsible for under the agreement; DCBF met all 10 performance measures. The "generally accepted government auditing standards" OIG states it used in its review are silent on the delivery of legal services. The draft report incorporates measures that are thus not in any objective standards, nor in any of the applicable laws, regulations or grant agreement terms, against which OIG evaluates subgrantees, and upon which it relies to develop recommendations (for example, the suggestion that subgrantees should develop and maintain detailed databases and training files for attorneys. Report p. 12, provides the core of Recommendation 12). No organization should be held to standards that are developed after the fact.

Further, the findings and recommendations must be evaluated against the fact that the City Council did not create, and did not intend to create, a District-run legal services network or grants agency through this appropriation: instead, it chose to take advantage of the vibrant community of dedicated and talented legal services provider organizations already working in the District, and of the DCBF's "demonstrated history of expertise and experience in making grants to nonprofit organizations that deliver those services." The City Council did not seek to redesign the DCBF grant process, but entrusted public funds to the DCBF to knowledgeably implement an efficient process for awarding the

EXHIBIT C: DCBF RESPONSE

funds to expand the legal services network in important areas. Recommendations to give the District government access to confidential client information, and to supplant providers' independent, programmatically driven eligibility criteria with a uniform standard, would severely undercut the Council's salutary goals. They would shift administration and design of the legal services grant program from the DCBF to the District government, contrary to the Council's express intent, and would increase rather than decrease barriers to access to justice.

A. Finding One: Verification of Grant Eligibility Requirements

OIG states that it encountered scope limitations in its review of selected subgrants that prevented it from determining whether grant funds were used to provide legal services to individuals who were eligible to participate in the program, or that services were provided to a specific number of clients. OIG met with five organizations that were providing civil legal services under subgrants to inquire about the implementation of these grants.¹ OIG asked these five for access to subgrantee client files – and although provided and offered alternative means of assessing the scope of work performed under the subgrants, it rests its finding and related recommendations on a desire to have access to client files, something that lawyers are prohibited from providing, and that would undermine organizations' ability to serve their clients.

1. Subgrantees provided information about client residency, income or underserved status, and overall numbers of clients served.

OIG represented that it lacked the means to verify that legal services were provided consistent with the grant agreement, Report p. 5. This is in error. The five subgrantee organizations that OIG met with about their legal services subgrants did provide, or offer, information that would have accomplished this goal. Subgrantees report client service information to the Bar Foundation, and copies of these reports were given to OIG. Further, subgrantees provided or offered aggregate information about the clients served under the FY07 subgrants – for example, Children's Law Center provided a printout from its database showing internal case tracking numbers, city of residence, and project/funding source each case fell under.

The subgrantees receiving funding all either means-test their clients (the highest level of eligible income among those subgrantees is 200% of the federal poverty level), or provide their services in an underserved area, or link their services to other means-tested publicly-funded programs, or some combination of these criteria.

OIG acknowledges that subgrantees verify income limits. Report p. 6. It takes issue with some subgrantees' reliance on clients' self-reporting of income or means-tested benefits.

¹ OIG met with Bread for the City, Legal Aid Society of DC, Neighborhood Legal Services Program, and the Whitman Walker Legal Clinic to discuss the subgrants under which each provided civil legal services. OIG also met with Ayuda, but inquired only about the subgrant to develop and create a legal interpreter bank: OIG did not ask Ayuda for materials concerning its delivery of legal services under a separate subgrant awarded to Ayuda.

EXHIBIT C: DCBF RESPONSE

and with the fact that individual subgrantee means tests range up to 200% of the federal poverty level – still far from any measure of “high-income.” OIG’s recommendation to establish a single eligibility criterion based on income reflects a desire for uniformity, and is not compelled by any legislation, regulation, or term of the grant agreement. Self-reporting of benefits and income is sufficient for the District in other programs, including the schools’ free & reduced lunch program. No suggestion is made that high-income clients are seeking or receiving legal services at any of the subgrantees. As discussed below, requiring clients to produce documentation of income could prevent clients from seeking services, and could make it impossible for programs to provide critical, emergency legal services.

Finally, independent verification of clients’ District residency is simply not a significant issue for the grant program. There is no question that the City Council appropriated the funds to serve District residents. Indeed, as DCBF explained to OIG auditors, DCBF funded six subgrants – including three examined by OIG – that designed in a way that non-DC residents do not even seek services under the subgrants: four subgrants fund lawyers who work in DC’s Landlord & Tenant Court, handling matters *already filed in that court* on behalf of tenants; one subgrant funds a lawyer who represents *only inmates in the D.C. Jail*;² and one subgrant funds a lawyer who travels to provide *in-home legal services to homebound elders in D.C.* All of the other legal services subgrants provide representation and advice on poverty law matters in the District. This advice and representation would not be useful to residents of Maryland or Virginia. Subgrantees advised OIG auditors that when out-of-state individuals contact them for legal services, they are referred to legal services providers in their home states. Local legal services are not comparable to social services or medical services – they are instead only useful to the people who live in the jurisdiction in which they are provided. There simply is no measurable concern that non-residents would be obtaining legal services under the subgrants and, indeed, there was no evidence at all that this was happening. As a result, to the extent any measures are necessary to confirm client residency, they should be designed to reflect the very low level of risk that non-residents would access such services, should acknowledge when additional confirmation is wholly unnecessary, and should not impose burdens that would disrupt the attorney-client relationship or discourage DC residents from obtaining the very services the City Council intended to provide.

2. OIG’s finding and recommendations are based on an imperfect understanding of existing limitations within the D.C. legal system and lawyers’ roles within that system.

The auditors assigned to the DCBF audit conducted a very capable financial audit of the grant agreement and of the financial compliance of subgrantees with their subgrant agreements. The result was an entirely clean financial audit – of over \$3 million dollars, all had been handled appropriately, with sufficient controls.

² DCBF staff outlined the facts and context of these subgrants to OIG’s auditors on several occasions.

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OIG did not meet the same standard in its program audit of the legal services grant program and LRAP program, largely because of an acknowledged lack of familiarity with and understanding of the District of Columbia justice system in general and the nature of legal services in particular. This is reflected in findings and recommendations that address client residency and access to client information, and that directly implicate attorneys' duties under the District of Columbia's rules of ethics to protect client information, to preserve independence in the judgments made on behalf of clients, and to refrain from intruding upon, or inducing others to intrude upon, other attorneys' relationships with their clients.

First, as outlined above, the subgrantees provided, or made available, to OIG auditors information evidencing that all legal services under the grants were provided to DC residents. OIG's representation that broad access to confidential client information was needed to verify this threshold requirement was in error, and reflects a lack of understanding of how the local legal system works in general, and how legal services work in particular. The structure of the local justice system virtually ensures that grant funds will be used for DC residents, and not for residents of other jurisdictions. District of Columbia courts can only hear and resolve District of Columbia matters. DC laws govern only DC matters. Clients have no incentive to travel across state boundaries to seek legal help from a local DC legal services program for a help in their home state. Indeed, as subgrantee lawyers advised the auditors, in their many years of legal services work, none had ever encountered an instance where a client had misrepresented their state residency in order to get legal services in DC.

Second, all District of Columbia lawyers are governed by rules of professional conduct with which they must comply, and that cannot be overridden by an auditor's wishes or by a grant agreement. Lawyers are absolutely required to protect client information, and to preserve independence of judgment in their legal work. DC Rules of Professional Conduct 1.6, 1.8, 5.4. Lawyers must refuse access to records that would reveal client confidences and secrets, including records that simply reveal the fact that the individual is represented. See D.C. Opinion No. 223 (Dec. 17, 1991). The fundamental reason for this bedrock principle is to encourage people to seek early legal assistance, and to communicate fully and frankly with their lawyers. Rule 1.6, Comments [2], [4]. It is unethical to disclose client names and addresses, and information about client income, unless the information is provided in aggregate reports that restrict access to confidential information. In order to ensure that the District's civil legal services grant program met the highest ethical standards, the grant agreement between OAG and DCBF specified that there would be no access to confidential client information during performance monitoring, and DCBF cleared with OIG auditors a letter to subgrantees stating that OIG auditors would not ask for confidential client information during their review of the subgrants. See, Grant Agreement, Article V. In short, DC lawyers cannot disclose client confidences, and are also forbidden from trying to induce another lawyer to disclose a client confidence or obtaining information by intruding on the attorney-client relationship. DC Rules of Professional Conduct Rules 4.4, Comment [1]; Rule 8.4(a). Any exceptions to these strongly held rules must be narrowly drawn and based in law.

EXHIBIT C: DCBF RESPONSE

Recommendations 1, 2, and 3 run afoul of lawyers' obligations under DC rules of professional conduct; implementing the recommendations would require attorneys to engage in misconduct. Should any information on client residency or other eligibility be necessary, provision of the information in aggregate reports – such as that provided to OIG by subgrantees – is wholly sufficient and compliant with the law. The recommendations run wholly counter to the City Council's goal of increasing access to justice in the District, and would have the unintended consequences of diverting resources from the provision of legal services and of discouraging the most vulnerable in our community from seeking the help of a lawyer.

B. Finding 2: Conflict of Interest in the Award of Grant Funds

OIG's finding on conflict of interest is based on error. The report fails to describe DCBF's rigorous, independent grants review process that secures both openness and fairness in the process; it mistakenly attributes relationships between staff, Board members, and applicants; it did not seek to interview Board members to verify information about the grants process and the Board's adherence to the conflict of interest policy or to determine whether any undue influence was exercised or perceived. Recommendation 5 is based wholly on conjecture.

The DCBF's conflict of interest policy in effect in FY2007 was adopted in December 2005, as part of the DCBF's regular update of its policies. The DCBF uses an outside general counsel, expert in non-profit law, to review and make recommendations for any changes to policies, to ensure that policies are in keeping with non-profit best practices. The conflict of interest policy was up to this high standard, and the DCBF's actions during the FY2007 grant process followed, and even went beyond, the requirements of this policy.³

The IG report does not outline the grants decision process, which is central to any discussion of possible conflicts of interest. As the IG auditor was advised, all applications were reviewed by the Director of Programs and a review team that consisted in most instances of the Executive Director, a Board member, and a member of the Advisory Committee. No one served on a review team if s/he had a relationship of any kind with the applicant, or if s/he requested for any reason to be recused from review of the application. The review team and the Director of Programs prepared a written report on the application based on review of the written materials submitted as well as an in-depth face-to-face interview with the applicant organization's representatives. The reports informed the written recommendations that were developed by the Director of Programs and presented to the DCBF Board of Directors for their review and deliberation in advance of the March 20, 2007 meeting. Because of time constraints, a final vote on

³ At DCBF's request, DCBF's General Counsel again reviewed DCBF's policies in the fall of 2008, in light of changes in the non-profit filing requirements under IRS form 990. As a result of this review, DCBF's conflict of interest policy was updated again, and now requires a written questionnaire in which Board and staff members identify organizations with which they have a relationship, in order to facilitate identification of actual or potential conflicts during DCBF transactions.

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the grant awards was not taken at the in-person meeting on March 20, 2007. Rather, a slate based on the Board meeting, and informed by the Director of Program's additional conversations with applicants, was presented to the Board by email, and a final electronic vote was taken. All actions were memorialized in writing. Minutes reflecting the award decisions and the identification of actual and potential conflicts were available, and forwarded to, OAG.

The IG suggests that two individuals had conflicts that "could have" given subrecipients an unfair advantage. Report pp. 7-8. It asserts that a "director [had] a spouse on the board of a subrecipient organization [and] a DCBF official had a personal relationship with the executive officer of a non-profit organization affiliated with a subrecipient whose application was under consideration." Report, p. 7.

To clarify the facts: A DCBF board member's spouse was a volunteer member of the board of the parent organization of one of the applicant legal services programs -- a program well known to DCBF staff and Board, and which has received competitively awarded funding from the DCBF since 1987. The Board member in question did not participate in the review or development of the recommendation concerning this organization's application; he was present for the discussions of the recommendations with the approval of the disinterested Board members; and there is no evidence or suggestion that he exercised any influence on this grant decision. The ultimate award to the organization was in line with the independent recommendation to the Board.

As to the second alleged conflict, the IG apparently refers to the DCBF Executive Director's husband -- an individual who has at all relevant times (a) been employed as a lawyer at a for-profit private sector law firm in the District, and (b) served as a volunteer board member and officer for a non-profit legal services provider that works with prisoners. The non-profit in question did not either apply for or receive public funding from DCBF -- it was not a "subrecipient organization" (Report p. 7) -- but some of its clients may have been served by a grant proposal from another applicant with which no relationship existed. The Executive Director took the cautious step of recusing herself from the review of any grant applications from organizations that provided legal services to prisoners. Review and recommendation of these applications were made without her participation or presence. The Executive Director has no authority to vote on matters presented at a Board meeting; she stayed in the meeting with the approval of the full Board; she did not participate in the discussion of the grant applications in question; she did not vote on any of the grant applications; and the decision to deny the unrelated application was in line with the independent recommendation to the Board.

Both the Board member in question and the Executive Director (who cannot vote in Board meetings) disclosed these fairly tenuous relationships to the grant applicant pool at the beginning of the March 20, 2007 Board meeting and, in keeping with the Board's written policy, a majority of the disinterested directors determined that they should

EXHIBIT C: DCBF RESPONSE

remain in the room during discussion of the grants. The written minutes of the Board meeting, which were subsequently forwarded to OAG, reflect this action.⁴

The DCBF made available to the OIG the names and contact information of DCBF Board members, including those who served on the Board in FY2007. OIG did not ask any of the Board members about the grant review or award process during its program audit. The IG ignores the rigorous and independent review and recommendation process that lead up to the March 20 Board meeting, and asserts without any basis whatsoever that allowing the Executive Director and the Board member in question to remain in the room during discussions (with the approval of the other, disinterested Board members) "could have influenced the vote of the other Board members, and therefore, given the subrecipients in question an unfair advantage or otherwise cast doubt on the fairness of the deliberations." Yet no grant was awarded outside the range of the recommendations that were developed from the independent review process. The conclusion in the IG's report that the award decisions "could have been" unfair is pure supposition, unanchored in the comprehensive and objective application review record, and not based in any facts.

DCBF had in place a conflicts policy and grant review process that met and continues to meet the highest standards. Finding 2 should be withdrawn. Should OIG wish to suggest that future grants agreements between DCBF and OAG memorialize the high conflicts standard to which DCBF adheres, that suggestion should take a different form.

We recommend that Finding 2 be stricken for the reasons above; at a minimum, we recommend that Recommendation 5 be stricken as unsupported. Recommendation 6 reflects action that DCBF has taken and continues to take; to the extent the IG is suggesting amending future grant agreements to reflect ongoing practice, the recommendation should be reworded. Recommendation 7 is not required by law; to the extent the IG recommends that future grant agreements include a mutual ethics clause, the recommendation should be reworded.

C. Finding 3: Poverty lawyer loan assistance program

DCBF rigorously complied with the LRAP Act and regulations in implementing the DC LRAP program. Information in files maintained by DCBF show for each FY07 LRAP recipient, among other information, the following debt-related information:

- a. detailed educational loan information (amount of loan, source, total and remaining obligation, and repayment status);

⁴ The IG report suggests that a "written recusal" should have been required as part of a conflict of interest policy. It provides no citation or any support for this suggestion, nor does it define what a 'written recusal' is. DCBF recorded any actual or potential conflicts of interest in writing in the record made of Board meetings, including the written minutes of the March 20 meeting. The IG points to the DCBF FY09 conflict of interest policy, which, consistent with new IRS guidelines, provides for a written conflict questionnaire. This questionnaire is not a "written recusal," but rather a record of entities with which an individual has a defined relationship, and that may at some point seek to transact business with DCBF.

EXHIBIT C: DCBF RESPONSE

- b. verification of the amount of educational loans that were secured for law school, as opposed to other educational expenses;
- c. information about other LRAP awards eligible for, applied for, and received.

The loan information obtained from applicants and verified by lenders identifies the lenders, including "The Student Loan People," US Dept of Education, Educational Loan Service, etc.

DCBF did verify the details of applicants' educational debt – and all the information is in each applicant's file, including Loan Schedule, Lender Certification Forms, and reports from relevant lenders. In this first year of the LRAP program, information was maintained in applicant files, and applicant summary sheets were prepared for each individual; separate charts analyzing information relevant to priority factors were prepared. Beginning with the second year of the LRAP program, applicant information, including historical LRAP awards, was compiled in a database to simplify tracking of the growing program. All this information was provided to, or made available for review by, the IG auditors. Neither the law, regulations, nor the grant agreement specified the format for maintaining information in general, and none required DCBF to create a database.

DCBF verified the portion of law school debt that was reflected in consolidated loans – and the information is in each applicant's file.⁵ That maximum eligible debt guided DCBF's application of 1 DCMR § 2403.6 in treating "the full amount of consolidated loan payments first coming due as eligible debt, up to the total amount of eligible debt owed, for the purposes of awarding and receiving loan repayment assistance under the Program." No LRAP participant received a windfall, or received awards beyond those contemplated by law, regulations, or guidelines.

DCBF maintained a schedule of the loans received by each participant in FY07 – the first year of the program – and beginning in FY08 (a year not being audited), included in the schedule the lifetime total DC-LRAP loans received by each applicant.

OIG's suggestion that guidelines are needed for LRAP applicants' mortgages, automobile loans, and credit card liquidation loans (Report p. 10) appear to have nothing to do with the LRAP program.

⁵ OIG appears to misunderstand the regulations relating to treatment of consolidated debt, and erroneously assumes that DCBF must verify that the entire monthly payment towards consolidated undergraduate and law school debt is going only to retire law school debt. See Report p. 10. No LRAP participant can receive an LRAP that is greater than his or her actual law school debt (described as "eligible debt" in the regulations). The regulations acknowledge that once undergraduate and law school educational debt have been consolidated, each monthly payment retires a portion of the total educational debt. To make it possible for applicants to consolidate their debt (and thus reduce debt expenses), receive an LRAP and yet not receive a loan greater than their eligible debt, the regulations *expressly assume* that for the relatively brief time an applicant is participating in DC's LRAP program, the full monthly payments of their consolidated debt are going to retire their law school debt. No one is getting more LRAP funds based on non-educational loans, as OIG appears to suggest, Report p. 10.

EXHIBIT C: DCBF RESPONSE

OIG's finding is based on its disagreement with the existing law and regulations defining eligible debt; as well as on a misunderstanding of how consolidated educational loans work – matters that DCBF addressed directly with the auditors. Under current law, regulations, and guidelines, no LRAP participant is eligible to receive LRAP funds that exceed the lesser of their total annual debt service for eligible expenses, or \$1,000 per month. DCBF calculates the total eligible debt; it confirms the monthly debt service paid; and under the guidelines makes an LRAP based on those two amounts. OIG is mistaken if it suggests that a different calculus is required by law or regulation. The DCBF scrupulously implements the program to ensure LRAP awards are within these guidelines.

OIG's recommendations thus do not either identify or correct deficiencies in the DCBF's administration of the LRAP program. Rather, Recommendation 8 appears to call for changes to regulations, based on an apparent misunderstanding of the treatment of consolidated debt. It should be stricken. Recommendation 9 calls for DCBF to implement provisions of the program that it has been implementing since the inception of the program; it should be stricken. There is no law, regulation, or provision of the grant agreement that supports Recommendation 10, which directs DCBF to create a database; in any event, DCBF did create and maintain a database beginning with the second year of the LRAP program. To the extent the recommendation suggests that a database (a) was a required component of the LRAP program in FY07 or any other year, and (b) does not exist, it should be stricken; to the extent OIG wishes to recommend continuation of such a database as an essential element of the program, Recommendation 10 should be reworded.

D. Finding 4: Review of Lawyer Training Files

OIG erroneously states that "subgrantees were unable to provide adequate documentation to demonstrate that new attorneys hired under the Civil Legal Services subgrant agreements with DCBF received the required training." Report p. 12. It describes the required training as follows: "In its subgrant agreements, DCBF included a performance measure clause that requires the subgrantee to develop and implement a clear plan for training new attorneys and providing them with training." *Id.* That performance measure was contained in only one subgrant, and applied to lawyers to be hired in only one of the new offices under that subgrant.

Four of the remaining 13 subgrants did include a training requirement: three of the Court-Based Legal Services (CBLIS) Grants, and the Neighborhood Access Project grant to Legal Aid Society.⁶ None of the other subgrants required training as a condition, and

⁶ To the extent OIG's findings relate to the other four subgrants with a training condition, both Legal Aid Society and Bread for the City provided OIG auditors with information supporting the training provided to lawyers hired under the Court-Based Legal Services grants and the LAS Neighborhood Access Project; NLSF provided training information for all its DC-funded lawyers including those in the Court-Based Legal Services project.

EXHIBIT C: DCBF RESPONSE

there is no requirement within the DC legal profession that lawyers receive annual training as a condition of their license, as the report appears to suggest.⁷

As to the single subgrant condition quoted by OIG, the subgrantee organization director worked with the legal services community to develop a plan for training all the legal services lawyers new to DC. DCBF observed the training and reviewed the materials at the time, and provided both the materials and a trainee list to OIG during its review. OIG erroneously states that “there was no indication that specific courses germane to all attorneys were used to develop and implement their plan.” Report p. 12. Yet the training was specifically designed to provide information germane to all new legal services lawyers in DC. The organization director kept records of training in electronic mail files, and forwarded this information to OIG auditors. OIG states that the organization did not keep training certificates – but no such “certificates” were provided from the training. OIG also states that subgrantees could use “Microsoft Excel and Word software applications to maintain training databases.” Report p. 12. Yet there was no requirement in law, regulation, or agreement for the maintenance of a training database; the organization in question was not awarded funds to support a Training Director.

Recommendations 11 and 12 are based on the OIG’s erroneous reading of the subgrant agreements, and attorney licensing obligations, and intrude into the operations of subgrantees in ways not contemplated, let alone required, by law, regulation or agreement. Recommendation 11 should be stricken. To the extent OIG Recommendation 12 suggests that any future subgrant agreement training conditions should require maintenance of a separate attorney training file for funded lawyers, the the recommendation should be re-worded.

E. DCBF Response to Recommendations

For the reasons outlined above, Recommendations 1, 2, 3, 5, 8, 9, and 11 should be stricken.

Recommendations 4, 6, 7, 10, and 12 should be reworded as follows, and should include introductory language clarifying that they are not precipitated by any deficiencies, but are rather suggested program enhancements:

Proposed Revised Recommendation 4: Modify future Civil Legal Services Grant Agreements to incorporate a clause reflecting DCBF’s reporting requirements.

⁷ The lack of objective standards used in the OIG review is apparent in the discussion of training in Finding 4. As justification for its broad recommendations on training, OIG states, without citation: “Typically, employees who possess a certification or license that allows them to conduct work of a professional nature are also held to standards that require adequate training. In addition, sound and widely-held business practices provide for organizations to have training programs and maintain detailed records of training for personnel in general.” Yet the DC Court of Appeals Rules Governing the Bar do not require continuing legal education. There is a similar lack of citation for the OIG’s reference to “sound and widely-held business practices,” and no suggestion that the practices in question would apply to the relatively small non-profit organizations that make up the legal services community.

EXHIBIT C: DCBF RESPONSE

Proposed Revised Recommendation 6: Modify future Civil Legal Services Grant Agreements to reflect DCBF's practice of informing OAG of conflicts that it addressed during the grants process.

Proposed Revised Recommendation 7: Modify future grant agreements between OAG and DCBF to include a mutual ethics clause addressing conflicts of interest.

Proposed Revised Recommendation 10: Modify future LRAP Grant Agreements to continue the maintenance of DCBF's LRAP database.

Proposed Revised Recommendation 12: Modify future Civil Legal Services grant agreements to support the establishment and maintenance of training files for any attorney training that is required by a subgrant.

EXHIBIT D: SUBGRANTEE RESPONSE – BREAD FOR THE CITY



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phone: 202.265.2400
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September 10, 2009

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Washington, DC 20020
phone: 202.581.8587
fax: 202.597.0537
www.breadforthecity.org
info@breadforthecity.org

Charles J. Willoughby, Esq.
Office of Inspector General
717 14th Street, NW, Fifth Floor
Washington, DC 20005

Re: Audit of Grant Agreement Between Office of Attorney General and DC Bar Foundation
(OIG No. 09-2-06CB); Bread for the City, subgrantees, Court-Based Lawyering Project and
Community Lawyering Project

Dear Mr. Willoughby:

I am writing to provide a partial response to the findings and recommendations of the Office of Inspector General regarding our subgrants with the District of Columbia Bar Foundation. The DC Bar Foundation, itself has provided a more detailed response, with which we agree wholeheartedly. I wanted to write additionally, however, to specifically address some of Bread for the City's responses to the auditor's requests.

Regarding client eligibility, in addition to the quarterly reports that spell out exactly how many people each program has helped, we provided a report that listed by internal case number every tenant the attorneys in the Court-Based Lawyering Project had helped, including zip code and which attorney represented the person. Of course, we withheld any confidential or identifying information, as is required by the Rules of Professional Responsibility.

As to residency, the Court-Based Legal Services Project only assists people who are having trouble with their D.C. housing situations. Put another way, the project meets virtually every client in D.C. Landlord/Tenant Court, where only residents of D.C. can be sued. In the course of the representation, we review leases and other documents that verify the residency of the tenant. In fact, if we were to discover that the tenant did not live in D.C., their case would be immediately dismissed and no representation would be necessary. Likewise, in the course of representation, we verify income in order to file Applications to Proceed *In Forma Pauperis*, intelligently argue rent calculations in cases involving subsidies, and work out reasonable payment plans. The same applies to the Community Lawyering Project, which has focused its efforts on assisting entire buildings of tenants whose housing is in jeopardy. Those buildings are all located in the District of Columbia, as verified by our personal visits to the tenants occupying them. Thus, we can say with the utmost confidence that our clients are at (or greatly below) 200% of the federal poverty guidelines – a standard

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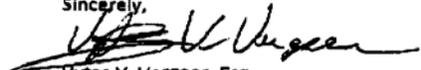
EXHIBIT D: SUBGRANTEE RESPONSE – BREAD FOR THE CITY

that has come to be accepted almost universally as appropriate for assessing whether a tenant has need of free legal services.

The last issue I wish to address is that of the training our lawyers received. First, I want to make clear that we provided not only a list of trainings our lawyers attended, but, in many instances, the training evaluations that they completed after attending those trainings. In addition to a three day new attorney training conducted locally by the Consortium of Legal Services Providers and a week-long, nationally recognized National Institute of Trial Attorneys training that several of our staff attended, we also provided substantial in-house and in-project training. These in-house and in-project trainings were conducted by experts in the specific fields in which the attorneys are practicing. Thus, the new staff attorneys received substantive training in DC landlord/tenant law from Vytas V. Vergeer, the undersigned, whose resume is included in the grant application, who is the Co-Chair of the D.C. Bar's Landlord/Tenant training, and who is recognized as one of the foremost experts in D.C. Landlord/Tenant law. The "advanced" trainings were conducted "in-program" by [REDACTED] of the Legal Aid Society, Mr. Vergeer and [REDACTED] of Bread for the City. We did not provide nor create certificates of completion. This was a small group of lawyers being trained by some of the most experienced and respected landlord/tenant attorneys in the city. There is no doubt as to the quality or quantity of the training our attorneys received.

Thank you for the opportunity to address these issues.

Sincerely,



Vytas V. Vergeer, Esq.
Legal Clinic Director

**EXHIBIT E: SUBGRANTEE RESPONSE –
CHILDREN’S LAW CENTER**



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Judith Sandalow

September 10, 2009

Charles J. Willoughby, Inspector General
Office of the Inspector General
717 14th Street, N.W.
Washington, DC 20005

Re: Draft Audit of the Grant Agreement Between the Office of the Attorney
General and District of Columbia Bar Foundation

Dear Mr. Willoughby:

This letter provides comments to the draft Audit of the Grant Agreement
Between the Office of the Attorney General and District of Columbia Bar
Foundation.

Recommendation 1: allowing auditors to access client intake documents

The confidential nature of the relationship between a Children’s Law Center
attorney and his or her client is critical to our ability to effectively represent
our clients. In order for Children’s Law Center to provide quality
representation, we must ask very personal questions about family income,
health and home life. Asking a prospective client to waive confidentiality,
especially at the beginning of the relationship, would hinder our ability to
build the trust necessary to do our jobs well.

Also, asking clients to sign consents that waive the attorney-client privilege in
order to receive representation seems coercive, if not unethical. CLC has
considered this in the context of asking clients for health and school
information not required for representation and learned that federal law
restricts such waivers.

There are other mechanisms by which the auditors can and did verify
compliance with the residency requirement. During the audit, CLC provided
a printout from our database that showed our internal case tracking numbers
and the client’s city of residence. These records, which are made
contemporaneously, should address the auditors’ concern that they “do not
have a means to verify that clients served through sub-grant agreements meet
residency” requirements.

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Phone 202.467.4900 • Fax 202.467.4949 • www.childrenslawcenter.org



EXHIBIT E: SUBGRANTEE RESPONSE – CHILDREN’S LAW CENTER

Recommendation 2a: establishing consistent guidelines for poverty level

CLC does not support establishing consistent guidelines for poverty level qualification unless they are extremely broad. In our experience, the clients who are most in need of our services fall across the low-income spectrum, and we are reluctant to cut off eligibility based on a simple numeric formula. For example, some families who might appear to exceed a traditional income and family size poverty guideline are in financial distress because of the costs associated with their child’s disability. These costs include specialized child care, transportation and dietary supplements, among others.

Recommendation 2b: residential eligibility

Certifying to eligibility to receive services is a reasonable new requirement under a limited “believe” or “best of our knowledge” standard. Requiring clients to produce independent records to verify their DC residence would be cumbersome for clients and attorneys and would mean at minimum that the intake process will be extended, if not destined to fail in certain cases. Because our representation involves legal issues affecting a child’s health, speedy intake can be critical.

When balanced against the need to verify information that generally becomes self-evident later in a representation, the burden appears excessive. We would support residency certification by the sub-grantee under a “best of our knowledge” standard so long as there is no mandatory minimum period of DC residency.

To be clear, during the audit investigation, we were asked how we verified the accuracy of the information we received from clients. We explained that we did so during the course of representation and that by gathering the documents we require to resolve a client’s legal matter (such as school and medical records) we verify the accuracy of the representations made to us orally. We also noted that we have not had an instance when clients have attempted to deceive us on residency or income.

We also explained that serving District residents living in poverty wasn’t just grant compliance—it’s our mission – and that we ask prospective clients where they live and what their family income is during intake. We explained that when a prospective client is not a DC resident or low-income, we provide referrals to others who can help them.

Thank you for your consideration.

Sincerely

Judith Sandalew
Executive Director

EXHIBIT F: SUBGRANTEE RESPONSE – NEIGHBORHOOD LEGAL SERVICES PROGRAM

NEIGHBORHOOD LEGAL SERVICES PROGRAM
HEADQUARTERS/NORTHEAST
680 RHODE ISLAND AVENUE NE
WASHINGTON, DC 20002
(202) 269-5100
(202) 832-1984 (FAX)

September 11, 2009

Charles J. Willoughby,
Inspector General
Government of the District of Columbia
Office of the Inspector General
717 14th Street, N.W.
Washington, D.C. 20005

Dear Mr. Willoughby:

This letter is in response to the draft report summarizing the results of the Office of the Inspector General's (OIG) Audit of the Grant Agreement Between the Office of the Attorney General and District of Columbia Bar Foundation (OIG No. 09-2-06CB). Neighborhood Legal Services (NLSP), as a subgrantee under the Civil Legal Services subgrant agreement, appreciates the opportunity to respond to the draft report. Specifically, NLSP would like to clarify two findings: (1) Finding One: Verification of Grant Eligibility Requirements and (2) Finding Four: Review of Lawyer Training Files.

A. Finding One: Verification of Grant Eligibility requirements

NLSP emphasized that eligibility is based upon guidelines established by Legal Services Corporation (LSC), which is an independent federal governmental agency. NLSP's standard for client eligibility is determined by up to 200% of the poverty level, unless there are exceptions such as the client is seeking to obtain public governmental benefits established for the poor. NLSP provided to the auditor, among other documents: intake procedures, eligibility guidelines, case acceptance guidelines, and a redacted client application. The application shows the residency, ward number, and other information of the client. However, we redacted information identifying the client.

NLSP was willing to provide case statistics. However, NLSP did not provide information to the auditor on overall numbers of clients served because the auditors told the Executive Director that the DCBF had already provided them with that information.

B. Finding Four: Review of Lawyer Training Files

NLSP provided documentation to the auditor indicating that new attorneys hired received the required training. In addition, NLSP provided the auditors with a comprehensive list of trainings



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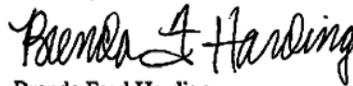
**EXHIBIT F: SUBGRANTEE RESPONSE –
NEIGHBORHOOD LEGAL SERVICES PROGRAM**

received by the attorneys. Those trainings were conducted internally by NLSP or externally by other legal services providers.

NLSP was informed by the auditors that we should have a training file for each attorney, which contains the dates, agenda, and costs for each training. NLSP informed the auditors that maintaining attorney training files has never been an organizational criterion. In addition, organizations which have organized training programs generally have a training director on staff. Due to the funding constraints, NLSP does not have a training director on staff and did not have a training director in FY 2007.

As noted above, NLSP appreciates the opportunity to respond.

Sincerely,



Brenda Ford Harding

EXHIBIT G: SUBGRANTEE RESPONSE – WHITMAN-WALKER CLINIC



September 11, 2009

Charles J. Willoughby
Inspector General of the District of Columbia
717 14th Street, NW
Washington, DC 20005

Re: Response to Draft "Audit of the Grant Agreement Between the Office of the Attorney General and District of Columbia Bar Foundation"

Dear Mr. Willoughby:

Whitman-Walker Clinic would like to comment on two of the findings in the August 4, 2009 "Audit of the Grant Agreement Between the Office of the Attorney General and District of Columbia Bar Foundation" (Draft Audit Report). Whitman-Walker was a subgrantee during the relevant grant year (May 2007 – April 2008), to establish and maintain a legal services office at the Clinic's Max Robinson Center in Anacostia. I worked directly with Ms. [REDACTED], Senior Auditor in the Office of Inspector General, in connection with the audit in question.

Finding One: Verification of Grant Eligibility Requirements. The Draft Audit Report states (page i) that "auditors or other District oversight bodies do not have a means to verify that the clients served through subgrant agreements meet residency or income requirements or that subgrant agreement requirements for serving a minimum number of clients were met." However, in response to Ms. [REDACTED] request for information regarding the income, residency and other characteristics of clients served by the subgrant, and the number of clients served with grant funds, I provided:

- copies of Whitman-Walker's quarterly and year-end reports to the DC Bar Foundation for the relevant grant year, which included numbers of clients and cases covered by the subgrant;
- information on our process for assigning specific clients and cases to this subgrant, as distinct from other funding streams;
- a percentage breakdown of our covered clients by income level (as a percentage of the applicable federal poverty level, which is how our database is configured);
- a percentage breakdown of our covered cases by subject matter (e.g., SSDI/SSI, Medicaid, DC Alliance, debt); and
- information on our intake process, including a hard copy of the intake screens from our "Legal Server" database to show the information that we collect from every client.

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ADMINISTRATION**
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EXHIBIT G: SUBGRANTEE RESPONSE – WHITMAN-WALKER CLINIC

Charles J. Willoughby
September 11, 2009
Page 2

The Draft Audit Report notes that the subgrant agreements for the grant year in question did not specify income requirements and did not require that subgrantees verify the income and residency information provided by clients. The Draft Report also acknowledged that allowing OIG access to client files would raise attorney-client confidentiality issues. However this matter is resolved in the future, it is important to keep in mind two points:

1. Requiring subgrantee staff to gather extensive proof of income and residency would divert limited resources from the delivery of legal services to administrative tasks and would result in a significant decrease in the numbers of District individuals and families that could be served with the limited funds in question. Moreover, since Whitman-Walker Clinic Legal Services are open to all otherwise qualified persons living in the greater Washington metropolitan area, regardless of whether they live in the District, suburban Maryland or Northern Virginia, and without regard to income level, our clients have no incentive to misrepresent their residency or income at intake.¹
2. Since many legal services cases involve D.C. Government agencies as adverse or potentially adverse parties, it would be inappropriate to allow OIG investigators access to confidential attorney-client information or attorney work product in client files.

Finding Four: Review of Lawyer Training Files. The Draft Audit Report states (page ii) that the subgrant agreements “require the development of a plan to train new lawyers and maintain adequate documentation of training received for each lawyer under the Civil Legal Services Program” and that OIG was “unable to identify the specific training undertaken by lawyers and the course curriculum used.” To the contrary, Whitman-Walker’s subgrant agreement for the grant year in question contained no training requirement – although of course our lawyers underwent extensive training in relevant substantive law, legal writing and advocacy, and other skills important to providing first-rate client service. Moreover, OIG never asked for documentation of training provided to our lawyers; the subject of training was never raised in our communications.

Please feel free to contact me if you have any questions.

Very truly yours,



Daniel Bruner, Director of Legal Services
Whitman-Walker Clinic
1701 14th Street, NW
Washington, DC 20009
(202) 939-7828 (direct number)
(202) 939-7627 (main Legal Services number)
dbruner@wwc.org

¹ As documented in our reports to the DC Bar Foundation, and in the information I provided to Ms. [REDACTED] the large majority of our clients in fact live in the District and have very low incomes or no income.

EXHIBIT H: SUBGRANTEE RESPONSE – AYUDA



Charles J. Willoughby 2009 SEP 15 5:41 PM
Office of the Inspector General
717 14th Street, N.W.
Washington, D.C. 20005

September 10, 2009

Re: Audit of the Grant Agreement between the D.C. Bar Foundation and the Attorney General

Dear Mr. Willoughby:

Thank you for the opportunity to review the draft report of the Audit of the grant agreement between the D.C. Bar Foundation and the Attorney General. I am writing to advise you that on May 20, 2009 I met with Ms. [REDACTED] and another representative from your office in regards to two projects for which Ayuda received publicly funded grants from the DC Bar Foundation in FY 2007, the Community Legal Interpreter Bank and the Immigrant Access Model Project.

With respect to the Immigrant Access Model Project, during this meeting Ms. [REDACTED] asked a series of questions concerning Ayuda's services, Ayuda's mechanisms for screening for client eligibility for our services, and Ayuda's systems for tracking staff time devoted to this project and costs associated with the project, as well as questions concerning our collaboration with our project partner, the Asian Pacific American Legal Resource Center (APALRC). At several points during this meeting, Ms. [REDACTED] indicated that she would later follow up with a written request for specific documentation regarding the project, its implementation, and the associated expenses. On June 2, 2009 Ms. [REDACTED] contacted me by telephone and requested: (1) Ayuda's final financial report to the DC Bar, (2) documentation of personnel expenses, and (3) Ayuda's 2007 audit. That same day I responded to Ms. [REDACTED] via email with the requested documentation. (Attached please find a copy of the email.) This was the last communication I had with Ms. Peters, although I know that Ms. [REDACTED] contacted the Director of the Community Legal Interpreter Bank, [REDACTED], on multiple occasions requesting certain documentation for that project, which she provided.

If you have any questions or would like to discuss Ayuda's Immigrant Access Model Project further, please do not hesitate to contact me at (202) 243-7312.

Sincerely,

Christina Wilkes
Acting Executive Director/Legal Director

Ayuda, Inc.
1707 Kalorama Road, N.W.
Washington, D.C. 20009
Telephone: 202-387-4848
Fax: 202-387-0324

EXHIBIT H: SUBGRANTEE RESPONSE – AYUDA

Ayuda Mail - DCBF Grant for Immigrant Model Project

Page 1 of 1



Christina Wilkes <christina@ayuda.com>

DCBF Grant for Immigrant Model Project

Christina Wilkes <christina@ayuda.com>

Tue, Jun 2, 2009 at 5:11 PM

To: [REDACTED]

Dear Ms. [REDACTED]

Pursuant to our phone call earlier today, attached please find: (1) our final financial report to the DC Bar for the 2007 grant period, (2) our records of payments to staff for salaries, fringe, and benefits, and (3) our 2007 Audit.

Thank you,
Christina

--

Christina Wilkes
Acting Executive Director/Legal Director Ayuda
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Washington, DC 20009
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Direct: (202) 243-7312
Fax: (202) 387-0324
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3 attachments

- DC Bar1.Income&Expenses.xls
50K
- Ayuda Financial Report.pdf
3K
- Ayuda D0706 FINAudit907[1].pdf
90K

<http://mail.google.com/a/ayuda.com/?ui=1&ik=6b712fbb61&view=pt&search=inbox&qt...> 09/10/2009