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March 30, 2010

Mr. Cesar E. Torres
Executive Director
Northwest Justice Project
401 Second Avenue South
Seattle, WA 98104

Dear Mr. Torres:

Enclosed is our final report on the results of our audit on Selected Internal Controls at Northwest Justice Project. We have reviewed your response to the recommendation in the draft report, and believe your action in finalizing a written contracting policy adequately addresses and resolves this issue. We therefore consider the recommendation closed. Your comments on the draft report are included as Appendix I of the final report.

We thank you and your staff for your cooperation and assistance.

Sincerely,

Jeffrey E. Schanz
Inspector General

Enclosure

**LEGAL SERVICES CORPORATION
OFFICE OF INSPECTOR GENERAL**

**REPORT ON SELECTED INTERNAL
CONTROLS**

**NORTHWEST JUSTICE PROJECT,
INC.**

RNO 948010

Report No. AU-10-02

MARCH 2010

www.oig.lsc.gov

EXECUTIVE SUMMARY

Audit Process: The Legal Services Corporation (LSC) Office of Inspector General (OIG) assessed the adequacy of selected internal controls in place at Northwest Justice Project (grantee) related to specific grantee operations and oversight. Audit work was conducted at the grantee's main office in Seattle, WA and at LSC headquarters in Washington, DC. The on-site fieldwork was conducted from August 17 through August 21, 2009 and from September 8 through September 11, 2009.

Results in Brief: Overall, internal controls reviewed were adequate. Grantee disbursements tested were adequately supported, allowable, and appeared to be properly allocated to LSC. However, written policies and procedures for awarding contracts and consulting agreements need to be expanded and more formally documented. Internal controls over compliance with specific LSC regulations were adequately designed. Internal controls over reimbursements and employee benefits were adequately adhered to.

Recommendation: The OIG recommends that the grantee's Administrative Manual be revised to incorporate more detailed written policies and procedures governing consultant contracting.

Summary of Grantee Management Comments: Grantee management stated that a new section on "Contracting Policies and Procedures" was developed for inclusion in the Administrative Manual. Grantee further stated that the policy was comprehensive and provided for competition, exceptions to competitive requirements, and award documentation.

OIG Evaluation of Grantee Management Comments: Grantee management comments were responsive to the recommendation in this report. The OIG considers this recommendation closed.

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INTRODUCTION

In accordance with the Legal Services Corporation Accounting Guide for LSC Recipients (August 1997) (Accounting Guide), Chapter 3, an LSC grantee is required to establish and maintain adequate accounting records and internal control procedures. The Accounting Guide defines internal control as the process put in place by the grantee designed to provide reasonable assurance of achieving the following objectives:

- safeguarding of assets against unauthorized use or disposition;
- reliability of financial information and reporting; and
- compliance with regulations and laws that have a direct and material effect on the program.

The Accounting Guide further provides that each grantee must rely upon its system of internal accounting controls and procedures to adequately address concerns arising from such issues as defalcations and to meet the complete financial information needs of its management.

OBJECTIVE

The overall audit objective was to assess the adequacy of selected internal controls in place at Northwest Justice Project (grantee) as the controls related to grantee operations and oversight, including program expenditures, fiscal accountability, and compliance with selected LSC regulations. Specifically, the audit evaluated selected financial and administrative areas and tested the related controls to ensure that costs were adequately supported and allowed under the LSC Act and LSC regulations. In addition, the audit examined selected regulatory policies and grantee processes to assess whether controls were designed in a manner expected to ensure compliance with the LSC Act and the selected LSC regulations. However, reaching conclusions regarding the grantee's compliance with any specific regulation was not an objective of the audit.

SCOPE AND METHODOLOGY

To accomplish the objective, controls over disbursements, internal management reporting and budgeting, selected LSC regulations, and employee benefits and reimbursements were reviewed. To obtain an understanding of the internal controls over these areas, grantee policies and procedures were reviewed, including manuals, guidelines, memoranda, and directives setting forth current grantee practices. Grantee officials were interviewed to obtain an understanding of the internal control framework and grantee management and staff were interviewed as to their knowledge and understanding of the processes in place. The grantee's independent public accountant was also interviewed. Computer generated data provided by the grantee was relied on to determine whether entries recorded in computer systems matched the information contained on the source documents. However, the OIG did not conduct tests of the general or application controls over the computer system.

To test for the appropriateness of expenditures and the existence of adequate supporting documentation, disbursements from a judgmentally selected sample of employee and vendor files were reviewed. The sample represented approximately 7 percent of the over \$31,735,544 the grantee disbursed during the period January 1, 2008 through June 30, 2009 and consisted of 85 transactions totaling \$2,291,598. To assess the appropriateness of these expenditures, the OIG reviewed invoices, vendor lists, and general ledger details. The appropriateness of grantee expenditures was evaluated on the basis of the grant agreements, applicable laws and regulations, and LSC policy guidance.

To review internal controls over internal management reporting and budgeting, the grantee's system and processes were compared to those detailed in the *Fundamental Criteria of an Accounting and Financial Reporting System (Fundamental Criteria)* found in the Accounting Guide for LSC Recipients. Controls over employee benefits and reimbursements were reviewed by examining written personnel policies and practices, and testing a judgmentally selected sample of employee reimbursements as part of the disbursements testing.

Internal controls over compliance with LSC regulations were reviewed (45 CFR Parts 1604, 1610, 1612, and 1617). We examined written compliance policies and procedures, including those based on applicable LSC mandated recordkeeping requirements, reviewed applicable documentation and reports, and interviewed staff to determine if the controls were designed in a manner to ensure compliance with the provisions of the respective LSC regulation.

The on-site fieldwork was conducted from August 17 through August 21 and from September 8 through September 11, 2009. Documents reviewed pertained to the period January 1, 2008 through June 30, 2009. Fieldwork was conducted at

the NWJP's central administrative office located in Seattle, Washington, and at LSC headquarters in Washington, DC.

This audit was conducted in accordance with generally accepted government auditing standards. Those standards require that the audit be planned and performed to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. The OIG believes the evidence obtained provides a reasonable basis for its findings and conclusions based on the audit objectives.

OVERALL EVALUATION

Overall, internal controls reviewed at Northwest Justice Project were adequate as the controls related to selected grantee operations and oversight, including program expenditures, fiscal accountability, and compliance with LSC regulations. Controls were designed in a manner expected to ensure compliance with the LSC Act and selected LSC regulations.

Grantee disbursements tested were adequately supported, allowable, and appeared to be properly allocated to LSC. Internal controls over employee benefits and reimbursements were adequate. Policies over employee benefits practices were in writing and followed. The grantee's current practices involving internal management reporting and budgeting were in accordance with the *Fundamental Criteria* contained in the Accounting Guide for LSC Recipients.

Internal controls over compliance with LSC regulations (45 CFR Parts 1604, 1610, 1612, and 1617) were adequately designed. Written compliance policies and procedures, including those based on applicable recordkeeping requirements, were in accordance with the respective LSC regulation.

However, internal controls over contracting could be strengthened. The grantee's current Administrative Manual does not contain sufficiently detailed written policies and procedures governing contracting.

AUDIT FINDINGS

- Written Policy Governing Contracting

Although a written policy was in place to govern consultant contracts for services, the policy was overly broad for an organization of this size. The written procedures did not describe nor assign responsibilities for the contracting process. Areas not documented included competition requirements (for contract bidding and the issuance of Requests for Proposals), requisite approval levels,

reporting requirements (such as when the Board of Directors is required to be notified), and file documentation requirements.

The current policy requires the Executive Director to sign and approve contracts. In our test of disbursements, we noted contract payments to two former employees and a construction contractor. Based on a review of the contracts and discussions with management officials, we believe the contracts should have been subject to additional control procedures (such as competition and file documentation requirements) under the circumstances. Establishing more detailed written policies and procedures helps strengthen controls over contracting and helps ensure funds are properly controlled and that appropriate approvals and authorizations are obtained.

Recommendation 1 - The Executive Director should expand on the written contracting policies and procedures currently found in the grantee's Administrative Manual to include competition requirements, procedures for exceptions to the competition requirements and award documentation requirements, among other appropriate policies and procedures.

Grantee Management Comment - The Executive Director states:

With respect to the draft audit report's recommendation NJP management has finalized a new section, "Contracting Policies and Procedures", for inclusion in our Administrative Manual. The comprehensive policy provides for competition requirements, procedures for exceptions to the competition requirements, and award documentation requirements. The new section covers the whole range of contracts into which NJP enters.

**OFFICE OF INSPECTOR GENERAL EVALUATION OF GRANTEE
MANAGEMENT COMMENTS**

Grantee management's comments and revised Contracting Policies and Procedures provided are responsive to the finding and recommendation contained in this report. The full text of management comments are at Appendix I of this report. The OIG considers Recommendation 1 closed.



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César E. Torres
Executive Director

February 12, 2010

Ronald D. Merryman, Asst. IG for Audit
LSC Office of Inspector General
3333 K Street, NW, 3rd Fl.
Washington, DC 2007-3558
Via Regular and Electronic Mail

RE: Draft Selected Controls Audit Report
Northwest Justice Project - RNO 948010

Dear Mr. Merryman:

Thank you for the opportunity to comment on the above draft report's recommendation. Before doing so, also wish to extend my appreciation to the audit team leader, Anthony Ramirez, and to the entire team for the very professional and courteous visit. NJP welcomes and appreciates the opportunity to receive constructive assessments of our internal controls, compliance and other systems to ensure the integrity of all of our systems and operations.

With respect to the draft audit report's recommendation¹ NJP management has finalized a new section "Contracting Policies and Procedures" for inclusion in our Administrative Manual. The comprehensive policy provides for competition requirements, procedures for exceptions to the competition requirements, and award documentation requirements. The new section covers the whole range of contracts into which NJP enters. The new "Contracting Policies and Procedures" section is attached hereto in its entirety.

Please contact me if you have any questions or concerns. Thank you for your attention.

Very truly yours,

César E. Torres
Executive Director

c. Anthony M. Ramirez (copy and electronic)

¹ Recommendation 1 - The Executive Director should expand on the written contracting policies and procedures currently found in the grantee's Administrative Manual to include competition requirements, procedures for exceptions to the competition requirements and award documentation requirements, among other appropriate policies and procedures.

Contracting Policies and Procedures:

Northwest Justice Project enters into various contracts for goods and services. This policy sets forth NJP contracting policies and procedures, including competition requirements and exceptions, for contracts involving specialized program services, litigation related services, private attorney contracting, technology development, and tenant improvement contracts. This policy is not intended to apply to regular on-going vendor agreements for office supplies, communications, copier maintenance, etc. It is also not intended to apply to corporate leases or corporate line of credit arrangements.

Many of NJP's contracting arrangements are subject to specific regulatory or other funding requirements and other NJP policies, for example: Private Attorney Involvement (PAI) contracts are subject to NJP's Contract Attorney Program (CAP) procedures and NJP's Board approved annual PAI Plan; NJP follows the LSC Property Acquisition Manual (PAMM) for contracts related to property funded with LSC funds; and LSC pre-approval is required for sub-grants and for PAI contracts exceeding \$25,000 of anticipated LSC funded expenditures. See LSC regulations 45 CFR Part 1614 and 1627. In addition, litigation related contracts (including independent contracts for professional services, client assessments and expert witnesses' testimony) or involving direct client services are handled through NJP's litigation expense protocol, approvals and procedures found in the NJP Administrative Manual. Special purpose grant funded projects may also be subject to grant specific contracting terms or specified contractors.

Contracting and Documentation Procedures for Contracts in Excess of \$25,000.

In addition to any other legal or funding requirements, the following procedures apply to covered contracts in excess of \$25,000:

1. NJP will issue a Request for Proposals (RFP) to possible contract providers and will select from no less than three documented bids. In instances where an RFP and/or three bids may not be reasonable or practical an exception may be requested. Exceptions require approval by the Executive Director or General Counsel.

An exception may be approved for reasons including but not limited to:

- a. The contract involves professional services of a specialized nature or involve reduced fee (PAI) client representation or subcontracts to support volunteer attorney referral services;
- b. The number of qualified and available providers of goods or services is limited.
- c. Lease agreements or landlords have in-house preferred contractors for Tenant Improvement work.
- d. Tenant Improvements are for a geographically isolated office with limited contractors available to bid.
- e. There is an unusual, compelling and time sensitive urgency related to the contract or the underlying project.

- f. A special purpose grant funded project has its own specific contracting terms or a specified contractor or contractors are included as part of the special purpose grant.
 - g. The contract is for continuation of the provision of goods and services previously provided by the contractor and it is impracticable, unfeasible or inefficient to seek bids from other sources.
2. As to matters other than direct client services and litigation related contracts the Director of Administration will initiate RFP's, develop selection criteria and process, document bids, document basis for final selection and present the contract and supporting documentation to the Finance Director for review. The Contract Attorney Coordinator will meet these requirements for Contract Attorney Program contracts. In addition, the Board's Audit Budget Committee will meet these requirements for the Independent Public Account (IPA) selection process.
 3. The Director of Finance will review documentation for completeness and assure that pricing appears reasonable and present for execution.
 4. The Executive Director or, if unavailable, the General Counsel must review, approve and sign the final agreement or contract.
 5. The Director of Finance will maintain and retain all relevant documents in the accounting department and in accordance with NJP document retention policies.
 6. The Director of Administration or the Director of Finance will oversee the service activities, construction activities or development activities and will monitor, review and approve progress billings. Change orders and billings exceeding estimate or bid by more than 10% require Executive Director or General Counsel's approval.

Contracts exceeding \$100,000 annually are to be detailed separately in the annual budgets submitted for Board consideration as part of the annual budget review and approval process.

Contracting and Documentation Procedures for Contracts over \$5,000 and less than \$25,000.

In addition to any other legal or funding requirements, the following procedures apply to covered contracts between \$5,000 and \$25,000:

1. Authorized NJP staff will secure a cost estimate or bid for the covered services, construction work or development work to be performed.
2. As to matters other than direct client services and litigation related contracts the Director of Administration will be responsible to document the estimate, document the final contractor selection and assure that agreements or contracts are reasonable and forwarded to the Director of Finance. The Contract Attorney Coordinator will meet these requirements for Contract Attorney Program contracts.
3. The Director of Finance will review documentation for completeness and assure that pricing appears reasonable and forward to the Executive Director, General Counsel or, in the case of CAP contracts, to the Director of CLEAR for review and approval.

4. The Director of Finance will maintain and retain all relevant documents in the accounting department and in accordance with NJP document retention policies.
5. As appropriate, the Director of Administration, Director of Finance or the Contract Attorney Coordinator will oversee the service activities, construction activities or development activities and will monitor, review and approve progress billings.

Contracting and Documentation Procedures for Litigation Related and Other Contracts of \$5,000 or less.

1. In addition to any other legal or funding requirements, litigation contracts and other contracts of \$5,000 or less will comply with NJP's procedures, forms and approval processes found in the litigation expense section of the NJP administrative manual and NJP's Accounts Payable, Approval, and Check Signer procedure as applicable.

Temporary Services Through the Use of Independent Contractors:

In certain instances, it is appropriate for NJP to enter into contracts with individuals to provide direct client or program services for a short period of time. Temporary assistance of this nature may arise when a staff member is on an extended leave of absence, i.e., parent or medical, or to perform specialized functions on a limited time basis. When a temporary need arises the responsible Senior Attorney should contact the Director of Administration to determine whether client service needs warrant a temporary services contract and whether an independent contractor or temporary employee is the most appropriate solution.

Classification as an Independent Contractor (IC) or as a Temporary Employee (Temporary on NJP payroll) is a determination that is to be made by a review of the facts of the relationship and consideration of the extent of NJP's right to direct and control the individual. The contract file should contain reasonable documentation of the factors used in coming up with this determination.

IRS - Independent Contractor General Rule

People such as lawyers, contractors, subcontractors and auctioneers who follow an independent trade, business, or profession in which they offer their services to the public, are generally not employees. However, whether such people are employees or independent contractors depends on the facts in each case.

The general rule is that an individual is an independent contractor if you, the person for whom the services are performed, have the right to control or direct only the result of the work and not the means and methods of accomplishing the result.

When NJP has made a determination that a consultant or other professional service provider is appropriately classified an independent contractor rather than as an employee, the NJP's Contracting Policies and Procedures shall be followed and an agreement prepared customizing NJP's standard independent contractor agreement form, available on line on the NJP intranet, as necessary. The contract or agreement is to reflect a comprehensive description of the duties, the rate of compensation or contract amount, the starting and ending dates, and the maximum payment allowed under the contract.

As services are rendered, an invoice and or other supporting documentation for the services must be to be submitted to the Accounting Department for payment. Payment will be issued when proper documentation and approvals are received by the Accounting Department indicating that the services have, in fact, been performed.

Debarment and Suspension Procedure:

Federal Requirements stipulate that entities receiving Federal sub-awards or contracts equal to or exceeding \$25,000 not be suspended or debarred by the Federal Government. To help ensure that NJP does not inadvertently sub-contract with a suspended or debarred party, NJP will verify that NJP vendors funded with Federal funds of \$25,000 or more will be crosschecked to the online Excluded Parties Listing System (<https://www.epls.gov/>). This crosscheck will be documented in the vendor information record within the Microsoft GP Accounts Payable. In addition, the following language will be included as part of any Federal sub-contract of \$25,000 or more.

Debarment Certification: The Contractor, by signature to this Contract, certifies that the Contractor is in good standing with all Federal agencies and not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from participating in Federal transactions.