

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

RESULTS OF REVIEW

**COMMUNITY LEGAL AID SOCIETY, INC.
WILMINGTON, DELAWARE**



**JUNE GIBBS BROWN
Inspector General**

**SEPTEMBER 1997
CIN: A-03-97-00514**



DEPARTMENT OF HEALTH & HUMAN SERVICES

REGION III
3535 MARKET STREET
PHILADELPHIA, PENNSYLVANIA 19104

TELEPHONE:
AREA CODE 215
596-6743-6744

OIG OFFICE OF AUDIT SERVICES

MAILING ADDRESS:
P.O. BOX 13716, MAIL STOP 9
PHILADELPHIA,
PENNSYLVANIA 19101

SEP 19 1997

Our Reference: Common Identification Number A-03-97-00514

Ms. Judy Schuenemeyer
Executive Director
Community Legal Aid Society, Incorporated
913 Washington Street
Wilmington, Delaware 19801

Dear Ms. Schuenemeyer:

This report provides you with the results of our review of the Community Legal Aid Society, Incorporated (CLASI). The objectives of our review were to evaluate CLASI's financial management practices and examine fiscal records and expenditures. Our review was conducted to determine the strength of the CLASI's system of internal controls in light of weaknesses identified in reviews at other Protection and Advocacy programs.

Our review disclosed that CLASI:

- did not have an adequate system to allocate salaries and shared costs among its grants and contracts because it did not use the actual number of hours worked in its allocation calculation;
- earned program income of \$18,822 that was not reported correctly on CLASI's financial status reports submitted to the Administration on Developmental Disabilities (ADD) and Center for Mental Health Services (CMHS) for fiscal year (FY) 1995¹; and
- charged \$462 in unallowable costs relating to lobbying activities to the ADD and CMHS grants.

¹ The CLASI FY covers the period January 1 through December 31.

We are recommending that CLASI:

- Revise its method of allocating salaries and shared costs to conform with the requirements of the Office of Management and Budget (OMB) Circular A-122;
- Revise its financial status reports to properly account for the Federal share of salaries, shared costs, and program income; and
- Refund \$462 (\$228 ADD and \$234 CMHS) in unallowable costs associated with lobbying.

By letter dated July 16, 1997, (Appendix), CLASI responded to our draft audit report. The CLASI generally disagreed with our conclusions and recommendations and requested an exit conference which was held on August 12, 1997. A summary of CLASI's response along with Office of Inspector General (OIG) comments is found later in this report. Portions of CLASI's response relating to matters no longer contained in the report were deleted and appendices and exhibits supporting the body of the response were not included for the sake of brevity.

INTRODUCTION

BACKGROUND

The CLASI is a non-profit law program that provides free civil (non-criminal) legal services to eligible Delawareans who have low incomes, are age 60 or older, or have disabilities. Services are provided statewide with offices in each of the three Delaware counties. This legal aid organization was established in 1946 by members of the Delaware State Bar Association who saw the need for legal services for people who could not afford to hire a lawyer. The CLASI seeks to provide equal access to justice for Delawareans regardless of their ability to pay or despite the mental, physical, or age related difficulties they may face.

During FY 1995, CLASI received \$672,635 in Federal funds from three sources.

- \$274,333 from the U. S. Department of Health and Human Services (HHS), Administration for Children and Families, ADD. The ADD funds the Protection and Advocacy for Persons with Developmental Disabilities (PADD) program. The PADD was created by the Developmental Disabilities Assistance and Bill of Rights Act of 1975. Grantees are required to pursue legal, administrative, and other appropriate remedies to protect and advocate for the rights of individuals with disabilities under all applicable Federal and State laws.

- \$241,286 from HHS, Public Health Service, CMHS. The CMHS funds the Protection and Advocacy for Individuals with Mental Illness (PAIMI) program which was established in 1986. Grantees are mandated to protect and advocate the rights of individuals with mental illness and investigate reports of abuse and neglect in facilities that care for these individuals.
- \$157,016 from the U. S. Department of Education's Rehabilitation Services Administration (RSA). The RSA funds the Protection and Advocacy for Individual Rights (PAIR) program which was established under the Rehabilitation Act of 1993. The program was established to protect and advocate for the legal and human rights of persons with disabilities.

The CLASI also received \$1,524,027 in grants and contracts from other sources. This included \$180,000 from the United Way, \$761,325 from the Legal Services Corporation, \$273,755 from the Delaware Bar Association, and \$112,785 from the Delaware Division of Aging. Grants and contracts totalling \$196,162 were received from other sources including the University of Delaware, other state and local governments, and private foundations.

SCOPE OF REVIEW

Our review was conducted in accordance with generally accepted government auditing standards. The objectives of our review were to evaluate CLASI's financial management practices and examine fiscal records and expenditures. To accomplish our objectives we:

- obtained an understanding of how CLASI's accounting system functioned through discussions with financial management personnel and the accounting firm which performed the independent audit of CLASI's financial statements;
- obtained an understanding of how program income is earned and used; determined the amount of program income earned for FY 1995; and determined how program income was being reported;
- determined that CLASI did not have any corporate credit cards for FY 1995;
- reviewed various financial reports including the financial status reports, audited financial statements, and general ledger;
- judgementally selected a sample of transactions to ensure that CLASI's system of internal controls permitted only allowable, allocable, and reasonable costs to be charged to its Federal grants;

- judgementally selected a sample of travel transactions and determined if the charges were: (1) in accordance with approved policies; (2) grant related and not of a personal nature; (3) allowable and allocable to the grant; and (4) properly accounted for; and
- reviewed time and attendance policies and determined if the procedures were being followed to ensure that time and attendance is correctly maintained.

We performed our review during December 1996 at the office of CLASI in Wilmington, Delaware.

RESULTS OF REVIEW

The CLASI's financial management practices were generally not sufficient to ensure that expenditures charged to the ADD and CMHS grants were allowable, allocable, and reasonable. Specifically, the allocation method that CLASI used to allocate these costs was inadequate because it did not use the actual number of hours worked in the calculation. As a result, the financial status reports submitted to the ADD and CMHS were incorrect. The CLASI personnel activity reports were not signed by the individual employee or by the responsible supervisory official. The CLASI also reported program income incorrectly and allocated unallowable costs relating to lobbying to the Federal grants.

CLASI'S METHOD TO ALLOCATE COSTS WAS INADEQUATE

The method of allocation of salaries and shared costs used by CLASI was inadequate. The CLASI allocation method did not use the actual number of hours worked as the basis to allocate costs. Instead, CLASI used an artificial basis of a 35 hour work week for use in its allocation method. Any hours worked in addition to a 35 hour week were considered "volunteer hours" and eliminated from any allocation calculation. As a result, the amounts being charged to its grants and contracts were inaccurate. Additionally, CLASI did not follow the OMB Circular A-122 requirement that personnel activity reports be signed by the employee or supervisor.

SALARIES

The OMB Circular A-122, Attachment B, Paragraph (6)(1), Support of Salaries and Wages states that, among other requirements, distribution of salaries and wages to awards must be supported by personnel activity reports. The reports must reflect an after-the-fact determination of the

actual activity of each employee and each report must account for the total activity for which employees are compensated and which is required in fulfillment of their obligations to the organization.

The procedures that CLASI used to allocate salary among its grants and contracts was documented in its "Staff Allocation and Charge Procedures". Salary was allocated to the various programs based on a 35 hour work week. While staff may actually work in excess of 35 hours a week, CLASI instituted policies to reduce the number of hours charged to its programs. The CLASI's procedures state:

Many attorneys work hours in excess of the hours per month for which they are paid. These hours are not paid and are not charged to any program. If the total number of hours recorded as worked for a staff person exceeds the hours in the month for which they are paid, hours are deducted first from non-billable hours not attributable to any specific program. Second, hours are deducted from billable hours reported. They are deducted first from any work done for a program to which the person is not assigned. Total billable hours revised plus total non-billable hours revised plus total vacation, sick, holiday, etc. must equal total weekday hours in the month.

The excess hours in a month were referred to by CLASI's Financial Director as "volunteer hours". Billable hours reflect time worked for a specific individual client that can be attributed to a specific program. Non-billable hours reflect time worked that cannot be attributed to any individual client or specific program, e. g. time spent attending a conference.

Because CLASI did not base the allocation of salaries on the actual number of hours worked, the percentage of salary charged to the Federal programs was not accurate. The following are examples of how CLASI's system allocated salaries of selected employees using its method versus what the allocation would be if the actual hours worked were used.

	CLASI METHOD			BASED ON ACTUAL HOURS		
	ADJUSTED HOURS WORKED	TOTAL HOURS	ALLOCATED PERCENTAGE	ACTUAL HOURS	TOTAL ACTUAL HOURS	ALLOCATION PERCENTAGE
Employee A for the 3rd quarter 1995						
ADD	281.30	455.00	61.82%	281.30	534.70	52.61%
CMHS	20.00	455.00	4.40%	20.00	534.70	3.74%
Employee B for the 3rd quarter 1995						
ADD	16.80	455.00	3.69%	16.80	512.20	3.28%
CMHS	0.70	455.00	0.15%	0.70	512.20	0.14%

For the 3rd quarter of 1995, Employee A earned \$15,093 and Employee B earned \$14,548. Using CLASI's allocation method, the ADD was allocated \$9,330 in salary costs for Employee A and \$537 for Employee B. The CMHS was allocated \$664 of Employee A's salary and \$22 for Employee B. Using an allocation method based on the actual total number of hours worked, however, results in the ADD being allocated \$7,940 and \$477 for Employees A and B respectively and the CMHS being allocated \$564 and \$20 respectively. As a result, in the above example, ADD was allocated \$1,450 more than it should have been and CMHS was allocated \$102 more than it should have been for salaries of the two individuals.

PERSONAL ACTIVITY REPORTS

The CLASI did not require employees or supervisors to sign their personal activity reports. Each month the attorneys' and paralegals' secretaries compiled time sheets on the basis of total billable hours, total non-billable hours, and total vacation and completed the "Time Record" which showed the attorney's activity for the month. The OMB Circular A-122 states that the personal activity reports must be signed by the individual employee, or by a responsible supervisory official having first hand knowledge of the activities performed by the employee, and that the distribution of activity represents a reasonable estimate of the actual work performed by the employee during the periods covered by the report.

SHARED COSTS

As a result of the number of hours worked being adjusted downward to account for only a 35 hour work week, CLASI's method to allocate shared costs among its programs was also inadequate and may result in an inequitable distribution of costs among programs. Shared costs include administrative and clerical support salaries and fringe benefits, utilities, telephone, rent, maintenance, printing and publications, postage, rental and maintenance of equipment, law library/ subscriptions, supplies, and miscellaneous expenses. The CLASI allocated shared costs to funding sources based on the overhead and support services cost per hour of legal time paid.

An "Overhead and Support Services (OHSS) Hourly Rate" was charged to each funding source quarterly based on the number of legal staff hours paid by the funding source that quarter. The OHSS was calculated by dividing the total cost of shared expenses by the total number of hours paid to legal staff. The OHSS was charged to each applicable funding source as an OHSS fee based on the number of legal staff hours paid by that funding source during the quarter.

The OHSS was inadequate because the denominator used in calculating the OHSS was not the actual number of hours worked by the employee. Rather, the total legal staff hours, based on a 35 hour work week, was used.

PROGRAM INCOME REPORTED INCORRECTLY

The CLASI did not report \$18,822 in program income correctly on the financial status reports submitted to the ADD and the CMHS for FY 1995. Program income was earned by CLASI in the form of attorney fees which were used to expand services in its programs. The CLASI did not recover attorney fees from the client share of any judgement.

The 45 Code of Federal Regulations (CFR) §74.42 states that program income is to be used in accordance with one or a combination of the following alternatives:

1. Deduction alternative -- the income is used for allowable costs of the project or program.
2. Cost sharing or matching alternative -- the income is used for allowable costs of the project or program, with the cost borne by the income counting toward satisfying a cost sharing or matching requirement.
3. Additional cost alternative -- the income is used for costs which are in addition to the allowable costs of the project or program but which further the objective of the Federal statute under which the grant was made.

The deduction alternative may always be used and must be used if neither of the other two alternatives is permitted by the terms of the grant. The other alternatives may be used if expressly permitted by the terms of the grant.

The terms and conditions of the PADD grant indicate that program income should be used in accordance with the deduction alternative, additional cost alternative, or a combination of both. The terms and conditions additionally state that all program income must be reported on the financial status report and must be used to further the overall objectives of the Protection and Advocacy program.

The terms and conditions for the PAIMI grant states that program income should be reported on the financial status report and the additional cost alternative should be used. Additionally, program income must be used to further the objectives of the Protection and Advocacy statute.

In FY 1995, CLASI received \$18,822 (\$11,172 ADD and \$7,650 CMHS) in attorney fees. In its financial status reports to the ADD and CMHS, CLASI incorrectly reported \$8,172 of the income earned with the ADD funds. The CLASI did not report this amount as program income, instead it classified the income as "all other recipient outlays". The remaining \$10,650 (\$3,000 ADD and \$7,650 CMHS) in income was not reported on the appropriate financial status report.

The problems relating to the reporting of program income were caused by CLASI financial personnel not understanding the requirements on how program income was to be reported. This has led to the Federal awarding agencies not being provided with accurate information.

UNALLOWABLE COSTS

The CLASI allocated \$462 in unallowable lobbying costs to the ADD and CMHS grants. The \$462 was part of a \$617 "special dues assessment" to the National Association of Protection and Advocacy Systems (NAPAS). A cover letter included with the invoice stated:

... To address these concerns and enhance NAPAS' legislative ability for the months ahead, the Board of Directors voted unanimously to issue .01% [sic] special assessment. "[Name Deleted by OIG] [NAPAS Secretary] moved to support a .1% special dues assessment to address the challenges to all our programs and lay the basis for a long term strategic public relations mechanism". [Name deleted by OIG] seconded. No opposition. To every extent possible, these monies should come from non-federal sources. Programs with the ability to provide more resources, are encouraged to do so in order to ensure that sufficient funds are available. It is estimated that NAPAS needs a minimum of \$50,000 to adequately respond to the challenges ahead.

NAPAS will use these funds for a three pronged response: 1) increased presence on Capitol Hill, 2) development of a comprehensive grassroots network and strategy for dissemination of an advanced technical assistance pieces, and 3) operation of a broad based public relations and education campaign....

The OMB Circular A-122, Attachment B Paragraph 21, Lobbying, states that any attempt to influence Federal or State legislation is unallowable.

CONCLUSIONS AND RECOMMENDATIONS

The CLASI's financial management practices were generally not sufficient to ensure that expenditures charged to the ADD and CMHS grants were allowable, allocable, and reasonable. Specifically:

- The CLASI system to allocate salaries and shared costs among its grants and contracts was inadequate because it did not use the actual number of hours worked in the calculation;
- Program income (\$18,822) was not reported correctly on CLASI's financial status reports submitted to the ADD and CMHS for FY 1995; and
- \$462 in unallowable costs relating to lobbying activities was charged to the ADD and CMHS grants.

We, therefore, recommend that CLASI:

- Revise its method of allocating salaries and shared costs to conform with the requirements of the OMB Circular A-122;
- Revise its financial status reports to properly account for the Federal share of salaries, shared costs, and program income; and
- Refund \$462 (\$228 ADD and \$234 CMHS) in unallowable costs associated with lobbying.

CLASI RESPONSE AND OIG COMMENTS

By letter dated July 16, 1997, (Appendix), CLASI responded to our draft audit report. The CLASI generally disagreed with our conclusions and recommendations. Specifically, CLASI believed that we did not correctly report the method used to allocate cost. The CLASI did agree that program income was reported incorrectly and that it would correct the financial status reports to accurately report program income. Finally, CLASI believed that the cost we categorized as unallowable was in fact allowable. Details on each of these areas are presented below.

CLASI'S METHOD TO ALLOCATE COSTS WAS INADEQUATE

CLASI Response:

The CLASI indicated that it may have failed to communicate to the auditing team the method by which costs are allocated to its funding sources. The response states that CLASI does not allocate costs based on an artificial basis of a 35 hour work week. The CLASI allocates costs based on Billable Hours. The CLASI also indicated that shared costs were allocated on an equitable basis.

The CLASI maintained that the system that it had in place was equitable to allocate salary and shared costs. The CLASI response states that our draft audit report does not reflect the method used by CLASI to allocate salaries and shared costs. The response indicates that CLASI attorneys and paralegals perform work for more than one funding source. It is therefore necessary to allocate their total personnel costs among funding sources based on the work performed for each funding source. The CLASI makes this allocation based on Billable Hours. Billable Hours is defined as time identifiable as having been worked for a specific client for a specific funding source.

The CLASI maintains a "Time and Attendance By Exception" record for each employee. This record accounts for all the activity for which an employee is compensated in a pay period. For purposes of accounting for time each employee must account for five seven hour days per week. A full time employee is paid for 456.75 hours per quarter whether he works 7 hours a day or 10 hours a day. The earnings for the employee represent payment for 456.75 hours of work in a quarter.

To determine the allocation of earnings to the appropriate funding sources all legal staff maintain monthly "Time Records". These records were not being signed by the employee or a supervisor. These records account for all the time an employee can work in each month.

The CLASI response also indicates that Non-Billable Hours and Vacation, Sick, etc. hours are not identifiable to a specific funding source. They are applicable to each funding source for which legal work is performed. The time is prorated based on the percentage of total time devoted to client work for a specific funding source.

The CLASI response suggests an alternate method for allocating cost "which may be workable and combines the above methods". The CLASI suggests using the total of all Billable and all Non-Billable time as the denominator for determining the allocation of percentages. No deductions would be made from either Billable or Non-Billable time.

OIG Comment:

The CLASI response as outlined above generally agrees with what we reported as being the system in place to allocate salary costs and shared costs among funding sources. As indicated in its response, CLASI concurs that the system it was using to allocate cost to specific funding sources did not in fact account for all of the time actually worked by employees but, rather, limited the allocation basis to 35 hours per week, the number of hours for which the employee was paid.

The CLASI response, in effect, agrees with our position that the system that it has in place is not adequate by agreeing that a "third method" to allocate costs "may be workable". We have concluded that the system in place at CLASI did not accurately allocate cost to funding sources because the system in place used an artificial base of 35 hours instead of the actual number of hours worked by employees. In addition, as stated in CLASI's response, the system used by CLASI only considered Billable Hours to allocate employee time. Furthermore, if an employee worked more than 35 hours in a given period, Non-Billable hours were first eliminated from the calculation, then the allocation percentages for each grant were determined. In effect, this policy makes it impossible for the system in place at CLASI to accurately reflect the time spent for any particular funding source.

Based on our analysis of the system in place at CLASI and considering its reply, we continue to maintain that CLASI must revise its method of allocating salaries and shared costs to conform with the requirements of the OMB Circular A-122.

PROGRAM INCOME REPORTED INCORRECTLY

CLASI Response:

The CLASI response indicates that it was confused about the reporting of attorney fees. It agrees that attorney's fees were not reported correctly. The CLASI also agrees that revised financial status reports to properly account for the Federal share of program income are needed.

UNALLOWABLE COSTS

CLASI Response:

The CLASI disagrees with our conclusion that the special dues assessment paid to NAPAS was unallowable. While CLASI confirmed that the special assessment was paid from Federal funds, it was their expectation that the Federal funds would be expended in an authorized manner. Their response concludes that NAPAS accounts for Federal and non-Federal amounts received as dues and pays for lobbying expenses and activities from non-Federal funds.

OIG Comment:

The CLASI agrees that the payments made to NAPAS were made with Federal funds. The special assessment was paid based on a letter from NAPAS dated February 1, 1995 that stated "To every extent possible, these monies should come from non-federal sources". The letter from NAPAS clearly indicates that the funds will be used for "increased presence on Capitol Hill".

A statement from NAPAS' Executive Director two years after the actual funds were used has no bearing on the decision to use Federal funds two years prior. The best information available to CLASI at the time the special assessment was made clearly indicated that the funds would be used for lobbying. Furthermore, CLASI has no assurance that NAPAS would use the funds in any other manner than that which was stated in the original request for funds.

Based on the information obtained during our review and the information provided in CLASI's response we conclude that the Federal funds provided to NAPAS were used for lobbying.

Final determinations as to actions taken on all matters reported will be made by the HHS action official named below. We request that you respond to the HHS official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act (Public Law 90-23), HHS/OIG Office of Audit Services reports issued to the Department's grantees and contractors are made available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act, which the Department chooses to exercise. (See Section 5.71 of the Department's Public Information Regulation, dated August 1974, as revised.)

Page 13 - Ms. Judy Schuenemeyer

To facilitate identification, please refer to Common Identification number A-03-97-00514 in all correspondence relating to this report.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Tom J. Robertson', written in a cursive style.

FOR Thomas J. Robertson
Regional Inspector General
for Audit Services

Direct Reply to HHS Action Official

Joseph E. Cook
Director, Division of Audit Resolution
Office of Grant and Contract Financial Management
Department of Health and Human Services
W.J.Cohen Building -- Room 1067
330 Independence Avenue SW
Washington, D.C. 20201



COMMUNITY LEGAL AID SOCIETY, INC.

913 Washington Street, Wilmington, Delaware 19801
(302) 575-0660 FAX (302) 575-0840

July 16, 1997

Thomas J. Robertson
Regional Inspector General for Audit Services
Department of Health and Human Services
Region III
3535 Market Street
P.O. Box 13716, Mail Stop 9
Philadelphia, PA 19101

RE: Common Identification Number A-03-97-00514

Dear Mr. Robertson:

This letter is the response of Community Legal Aid Society, Inc. (CLASI) to the Draft Report of the Results of Review, dated June 17, 1997. We have decided that we would like to have an exit conference with our auditor included and I would appreciate it if someone from your staff could contact me with possible dates.

Allegations Made in the Report

The Draft report dealt with three primary issues. According to the report, the "review disclosed that CLASI:

- did not have an adequate system to allocate salaries and shared costs among its grants and contracts because it did not use the actual number of hours worked in its allocation calculation;
- earned program income of \$18,822 that was not reported correctly on CLASI's financial status reports submitted to the Administration on Developmental Disabilities (ADD) and Center for Mental Health Services (CMHS) for fiscal year (FY) 1995; and
- charged \$462 in unallowable costs relating to lobbying activities to the ADD and CMHS grants.



NEW CASTLE CO.	Main Office, 913 Washington Street, Wilmington, DE	(302) 575-0660
	SCLAP (Seniors), 913 Washington Street, Wilmington, DE	(302) 575-0666
KENT COUNTY	840 Walker Road	Dover, DE (302) 674-8500
SUSSEX COUNTY	144 E. Market Street	Georgetown, DE (302) 856-0038

The United Way

CLASI's Response to the Allegations

CLASI METHOD TO ALLOCATE COSTS WAS INADEQUATE and PERSONAL ACTIVITY REPORTS

CLASI may have failed to successfully communicate to the auditing team the method by which costs are allocated to our funding sources. The Draft Report states that "The CLASI allocation method did not use actual number of hours worked as the basis to allocate costs. Instead CLASI used an artificial basis of a 35 hour work week for use in its allocation method." This is not the method used by CLASI to allocate costs.

CLASI' response to this section of the Draft Report will deal with three issues:

An explanation of the actual method by which CLASI allocates costs.

A discussion of the BASED ON ACTUAL HOURS METHOD suggested by the Draft Report.

A suggested method of allocating costs combining the method currently used by CLASI and the method suggested by the Draft Report.

ACTUAL METHOD BY WHICH CLASI ALLOCATES COSTS

CLASI does not allocate costs based on "an artificial basis of a 35 hour work week. CLASI allocates costs based on Billable Hours

The method used by CLASI is described in Exhibit A (See Attached). A paragraph from this document is quoted on page 5 of the audit report.

The example for "CLASI METHOD" on page 5 of the Draft Report (**shown below**) indicates that CLASI uses the total number of compensated work hours in a quarter, 455, as the denominator for determining the percent of total costs charged to each funding source.

	CLASI METHOD		
	ADJUSTED HOURS WORKED	TOTAL HOURS	ALLOCATION PERCENTAGE
Employee A for the 3rd quarter 1995			
ADD	281.3	455	61.82%
CMHS	20.0	455	4.40

This does not accurately reflect the method used by CLASI. CLASI attorneys and paralegals perform work for more than one funding source. It is therefore necessary to allocate their total personnel costs among funding sources based on the work performed for each funding source. CLASI makes this allocation based on Billable Hours.

For all legal staff there are three categories of time:

Billable Hours Time identifiable as having been worked for a specific client for a specific funding source.

Non-Billable Hours Time not identifiable to a specific client but relevant to all funding sources for whom work is done such as supervision time, training time, time completing Time Records, etc.

Vacation, Sick Etc. Time not identifiable to a specific funding source.

All categories of time must be charged to a funding source. The Non-Billable Hours and the Vacation, Sick Etc. time track the Billable Hours Time. If, for example, an attorney works 20% of his Billable time for a specific funding source 20% of his Non-Billable and Vacation, Sick Etc. time also attaches to that funding source. By this method funding sources bear the cost of Non-Billable and Vacation, Sick Etc. time in proportion to the Billable Hour time they support.

CLASI maintains a "Time and Attendance By Exception" record for each employee. The auditing team was asked if they wanted to review these records but they declined. This record accounts for all the activity for which an employee is compensated in a pay period. These reports are submitted semi-monthly to coincide with CLASI's 24 pay periods. These records are initialed by the employee and approved by a supervisor. CLASI has been interpreting "total activity for which employees are compensated" to mean time worked for time paid. CLASI employees are not paid on an hourly basis but are paid a set salary.

For purposes of accounting for time on the "Time and Attendance By Exception Record" each employee must account for five seven hour days per week. A normal CLASI work day for a full time employee is 7 hours (8 hours with a 1 hour lunch break which is not compensated). For example, an employee who takes a vacation day is entitled to 7 hours vacation time. If an employee takes a day of leave without pay 7 hours pay is deducted from their pay. For this purpose the per hour rate deducted is based on dividing the employee's total annual pay by 1,827 hours (7 hours per day times 261 week days - the total number of week days per year may vary from year to year from 260 to 261 but CLASI uses 261 as the standard).

A full time employee is paid for 456.75 hours per quarter (1,827 hours per year divided by 4 quarters). An attorney earning \$60,372.96 with no days without pay will earn \$15,093.24 each quarter whether he works 7 hours a day or 10 hours a day.

Because many CLASI legal staff perform legal work for more than one funding source there must be a way to charge legal staff time to each funding source. For example, for the attorney earning \$15,093.24 per quarter no more than a total of \$15,093.24 per quarter may be charged to our funding sources. This \$15,093.24 represents payment for 456.75 hours of work (1,827 total hours per year divided by four quarters).

To determine the allocation of this \$15,093.24 to the appropriate funding sources all legal staff maintain monthly "Time Records". These "Time Records" were not being signed by the employee or a supervisor. These "Time Records" are currently being approved and initialed by each employee. These "Time Records" account for all the time an employee can work in each month. For example, for the third quarter of calendar year 1995 the month of July has 147 total possible work hours (21 week days time 7 hours per day). August has 161 possible hours and September has 147. On the July 1995 "Time Record" the total time for July must total 147 hours.

Because employees are paid their annual salary in 24 equal payments covering the 1,827 annual hours for which they are paid each pay covers 76.125 hours (1,827 hours divided by 24 pays). The hours an employee can actually work in a given quarter, however, may vary. In the 3rd quarter of calendar year 1995 the total number of hours was 455.

These 455 hours are used solely to account for all possible work hours in a month and to insure that only hours paid are used in calculating hours charged to each funding source. Of this 455 hours the total Billable Hours are used to determine the percentages of total time to be charged to each funding source.

The Time Records for July through September 1995 for Employee A used in the example cited in the draft report are attached. (See Exhibit B - 1 through Exhibit B - 3. These Time Records identify the three categories of time

Billable Hours	Time identifiable to a specific client.
Non-Billable Hours	Time not identifiable to a specific client.
Vacation, Sick etc.	Time not identifiable to a specific client.

The compilation of hours from these reports shows that for Employee A, the attorney used in the example, the totals for the three categories of time were:

Billable Hours		351.7
ADD	281.3	
CMHS	20.0	
PAIR	2.3	
AT	47.2	
C	.9	
Non-Billable Hours		91.0
Vacation, Sick, etc.		<u>92.0</u>
TOTAL		534.7

This total is 79.7 hours more than the 455 total possible work hours in the month. On a month by month basis these hours are deducted. In July 21.2 hours were deducted from Non-Billable hours, time not identifiable to a specific funding source. In August 17.4 hours were deducted from Non-Billable Hours, again time not identifiable to a specific funding source. In September 40.7 hours were deducted from Non-Billable Hours, the time not identifiable to a specific funding source. In addition .4 hours were deducted from Billable Hours identified on the report as C. This revises the report as follows

Billable Hours		351.3
ADD	281.3	
CMHS	20.0	
PAIR	2.3	
AT	47.2	
C	.5	
Non-Billable Hours		11.7
Vacation, Sick, etc.		<u>92.0</u>
TOTAL		455.0

After this revision the total number of hours accounted for equals the total possible compensated work hours in the quarter. This insures that only hours worked are being allocated. The allocation is based on Billable Hours as these are the only hours identifiable to specific funding sources.

The ACTUAL CLASI Method of allocating costs is as follows:

	ACTUAL		CLASI METHOD	
	ADJUSTED HOURS WORKED	TOTAL BILLABLE HOURS	ALLOCATION PERCENTAGE	
Employee A for the 3rd quarter 1995				
ADD	281.3	351.3	80.07%	
CMHS	20.0	351.3	5.69%	

Non-Billable Hours and Vacation, Sick, etc. hours are not identifiable to a specific funding source. They are applicable to each funding source for which legal work is performed. A pro rated share of these hours must be allocated to each funding source for whom legal work was performed. This time is prorated based on the percentage of total time devoted to client work for a specific funding source. For example, if an attorney spends 50% of the time in a quarter performing legal work for specific clients identifiable to a specific funding source it is reasonable to also charge to that funding source 50% of Vacation, Sick Etc, time and Non-Billable time.

These hours are charged to each funding source based on the percentage of Billable Hours worked for each funding source. Therefore, using this example and extending it to include all funding sources for whom Employee A performed legal work in the quarter the percentage of Billable Hours worked for each funding source is:

Billable Hours		
ADD	281.3	80.07%
CMHS	20.0	5.69%
PAIR, AT and C	50.0	14.24%
TOTAL	351.3	100.00%

A complete chart for the ACTUAL CLASI METHOD would be as follows:

	ACTUAL	CLASI METHOD	COMPLETE
	ADJUSTED HOURS WORKED	TOTAL BILLABLE HOURS	ALLOCATION PERCENTAGE

Employee A for the 3rd quarter 1995

ADD	281.3	351.3	80.07%
CMHS	20.0	351.3	5.69%
AT, PAIR, C	50.0	351.3	14.24%
TOTAL	351.3		100.00%

These percentage are applied to Employee A's total personnel costs for the quarter. By this method 100% of Employee A's costs are charged to a funding source.

DISCUSSION OF BASED ON ACTUAL HOURS METHOD SUGGESTED IN DRAFT REPORT

The Draft Report suggests using a method based on actual hours as illustrated by the following chart from page 5 of the report.

	BASED ON ACTUAL HOURS		
	ACTUAL HOURS	TOTAL ACTUAL HOURS	ALLOCATION PERCENTAGE

Employee A for the 3rd quarter 1995

ADD	281.3	534.7	52.61%
CMHS	20.0	534.7	3.74%

In the chart above, taken from the Draft Report the second column is titled "Actual Hours". The chart in the Draft Report used as an example of the CLASI METHOD titles this same column "Adjusted Hours Worked". In the Draft Report the numbers in this column for both the CLASI METHOD and the BASED ON ACTUAL HOURS method are the same numbers.

A complete chart including all funding sources for the BASED ON ACTUAL HOURS method follows:

	BASED ON	ACTUAL HOURS	TOTAL
	ADJUSTED HOURS WORKED	TOTAL ACTUAL HOURS	ALLOCATION PERCENTAGE

Employee A for the 3rd quarter 1995

ADD	281.3	534.7	52.61%
CMHS	20.0	534.7	3.74%
AT, PAIR, C	50.0	534.7	9.35%
TOTAL	351.3		65.70%

The BASED ON ACTUAL HOURS METHOD accounts for allocating only 65.7% of Employee A's personnel costs. This leaves 34.3% of the costs unallocated. CLASI must allocate all costs to some funding source.

SUGGESTED COMBINATION METHOD FOR ALLOCATING COSTS

CLASI would like to suggest a third method which may be workable and combines the above methods. In 1995 CLASI did not identify Non-Billable time to any funding source. Currently we are identifying Non-Billable time as closely as possible to a funding source. If the

time is equally attributable to all funding sources for whom work is being performed it is split evenly between the funding sources. CLASI suggests using the total of all Billable and All Non-Billable time as the denominator for determining the allocation of percentages. No deductions would be made from either Billable or Non-Billable time. As an example, using a hypothetical spread for the 91 Non-Billable Hours, the result is:

	SUGGESTED	COMBIN	ATION	METHOD	
	NON BILLABLE HOURS	BILLABLE HOURS	TOTAL HOURS BY FUNDIN G SOURCE	TOTAL HOURS ALL FUNDING SOURCES	ALLOCA- TION PERCENT AGE

Employee A for the 3rd quarter 1995

ADD	281.3	50.7	332.0	442.3	75.06%
CMHS	20.0	25.4	45.4	442.3	10.26%
AT, PAIR, C	50.0	14.9	64.9	442.3	14.68%
TOTAL	351.3	91.0	442.3	442.3	100.00%

By using as the denominator the total of all the identifiable time to be allocated, we will allocate 100% of the time. If we use any other number, other than this total, we will arrive at a number of less than 100%. The combination method identifies all time to a specific funding source except vacation, sick etc. By the method described above this time is allocated to the funding sources based on the percentage of total Billable and Non-Billable time worked for each funding source.

SHARED COSTS

The draft report expresses concern that shared costs may be affected by the problem with the allocation of costs identified by the auditing team.

The shared cost concept is to equitably allocate shared costs across all funding sources based on a reasonable method. CLASI's method is based on arriving at the dollar amount it costs CLASI to support one hour of time paid to a paralegal or attorney. This hourly rate is then multiplied by the hours of paid time supported by each funding source.

This method seemed more equitable to us than, for example, spreading the shared costs based on the percentage of the budget provided by each funding source. It costs the agency no more to support attorney A than attorney B. But, if attorney A has a salary much higher than Attorney B the funding source supporting attorney A will pay an inequitable share of the shared costs.

The Draft report suggests that the total hours worked by legal staff should be the denominator used in calculating shared costs. The report seems to define total hours worked as including all Billable, Non-Billable and Vacation, Sick Etc. hours. If total hours worked is the denominator used in calculating the shared costs hourly rate, then it can be assumed that this would also be the multiplier used in allocating shared costs.

If total hours paid is used as the denominator for calculating a shared cost rate, the cost charged per hour will be higher. If total hours, as cited by the Draft Report, is used the per hour cost will be lower.

All shared costs must be allocated to a funding source. This will only happen if the denominator for determining the hourly rate is also the multiplier for charging out costs. For example if total hours, as cited by the Draft Report is used as the denominator for calculating the hourly rate the hourly rate must be multiplied by the total hours. This means that the hours will be charged at a lower rate but more hours will be charged.

Perhaps the method used for calculating and allocating shared costs would be dove tailed to the combination method outlined above for allocating costs.

PROGRAM INCOME REPORTED INCORRECTLY

CLASI was confused about the reporting of attorneys fees. All attorneys' fees were credited to the appropriate funding source. They were not correctly reported. The Department of Health and Social Services March 28, 1997 letter indicates that this is a problem among Protection and Advocacy systems.

It is clear as to how this should be done and will be correctly done in the future.

UNALLOWABLE COSTS

The allegation related to a special dues assessment from NAPAS is incorrect. CLASI paid the special assessment from federal funds and so indicated on the Memorandum dated 2-6-95. It was our expectation that those federal funds would be expended in an authorized manner. NAPAS accounts for federal and non-federal amounts received as dues and pays for lobbying expenses and activities only from non-federal funds. (See supporting documentation as Exhibits C1-4, which includes copies of the 2-1-95 memorandum to NAPAS membership, the invoice for the special assessment, CLASI's memorandum to NAPAS and the 2-10-97 writing from NAPAS regarding the use of federal funds.)

Other Matters

DELETED BY OIG
MATERIAL NO LONGER IN REPORT

We look forward to discussing the Draft Report with your staff at the exit interview.

Sincerely,

Handwritten signature of Judith A. Schuenemeyer in cursive script, followed by a slash and the letters 'ce'.

JUDITH A. SCHUENEMEYER
Executive Director

Attachments

cc: Carole Schauer, Program Officer
Ed Vreeswyk, Program Manager
Theresa Dominianni, Auditor