

# OFFICE OF THE STATE AUDITOR

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# DIANA DIZOGLIO

Official Audit Report – Issued June 16, 2023

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## Massachusetts Legal Assistance Corporation

For the period July 1, 2019 through June 30, 2021



# OFFICE OF THE STATE AUDITOR

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# DIANA DIZOGLIO

June 16, 2023

Lynn Parker, Executive Director  
Massachusetts Legal Assistance Corporation  
18 Tremont Street, Suite 1010  
Boston, MA 02108

Dear Ms. Parker:

I am pleased to provide to you the results of the enclosed performance audit of the Massachusetts Legal Assistance Corporation. As is typically the case, this report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2019 through June 30, 2021. As you know, my audit team discussed the contents of this report with agency managers. This report reflects those comments.

I appreciate you and all your efforts at the Massachusetts Legal Assistance Corporation. The cooperation and assistance provided to my staff during the audit went a long way toward a smooth process. Thank you for encouraging and making available your team. I am available to discuss this audit if you or your team have any questions.

Sincerely,



Diana DiZoglio  
Auditor of the Commonwealth

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## LIST OF ABBREVIATIONS

COVID-19	2019 coronavirus
CTR	Office of the Comptroller of the Commonwealth
ICP	internal control plan
IOLTA	Interest on Lawyers Trust Account
LAO	legal aid organization
MLAC	Massachusetts Legal Assistance Corporation

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## EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the Massachusetts Legal Assistance Corporation (MLAC) for the period July 1, 2019 through June 30, 2021. In this performance audit, we determined the following:

- whether MLAC awarded at least 80% of its grants to local legal aid organizations (LAOs) based on the number of eligible clients in the service area in accordance with Section 9 of Chapter 221A of the General Laws;
- whether MLAC conducted peer reviews in accordance with its monitoring process;
- whether MLAC awarded statewide funding in accordance with its grant awarding process; and
- whether MLAC updated its internal control plan (ICP) to address the impact of the 2019 coronavirus (COVID-19), as required by Office of the Comptroller of the Commonwealth's "COVID-19 Pandemic Response Internal Control Guidance."

Below is a summary of our findings and recommendations, with links to each page listed.

<b>Finding 1</b> <b>Page <a href="#">8</a></b>	MLAC conducted a peer review of only one of its LAOs per year.
<b>Recommendation</b> <b>Page <a href="#">8</a></b>	We understand there may have been potential challenges associated with the COVID-19 pandemic. Moving forward, MLAC should perform several peer reviews of LAOs each year to help ensure accountability.
<b>Finding 2</b> <b>Page <a href="#">9</a></b>	MLAC's ICP was not updated with a COVID-19 component.
<b>Recommendation</b> <b>Page <a href="#">10</a></b>	MLAC should establish policies and procedures, including a monitoring component, to ensure that its ICP is updated when significant changes occur.

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## OVERVIEW OF AUDITED ENTITY

The Massachusetts Legal Assistance Corporation (MLAC), created in 1983 under Chapter 221A of the Massachusetts General Laws, oversees and funds civil legal aid programs in Massachusetts. According to its website, MLAC “is the largest source for civil legal aid funding in the Commonwealth.” MLAC is governed by an 11-member board of directors, 10 of whom are appointed by the Supreme Judicial Court. The 11th member is the Chief Justice for Administration and Management of the Trial Court or that Justice’s designee.

MLAC’s mission is to ensure that residents of Massachusetts whose incomes are in the lowest income bracket have legal services available to them for civil matters. MLAC collaborates with the general public, the legal services community, the Massachusetts bar, and the state Legislature.

MLAC receives funding from the state budget and the Interest on Lawyers Trust Account (IOLTA)<sup>1</sup> as well as various other sources. In fiscal year 2020, MLAC received a state appropriation of \$24 million, IOLTA funds of over \$7.3 million, and grants and other revenue totaling over \$5.7 million, and MLAC awarded over \$32.6 million in grants. In fiscal year 2021, MLAC received a state appropriation of \$29 million, IOLTA funds of over \$6.5 million, and grants and other revenue totaling over \$13.7 million, and MLAC awarded over \$44.4 million in grants.

### General Support Grant

MLAC distributes funds to legal aid organizations (LAOs) through its General Support Grant. LAOs offer legal advice and representation for civil legal matters to Massachusetts residents whose incomes are in the lowest income bracket. MLAC awards grant money to local and statewide LAOs. To be eligible for legal services, a family of four would have to have an annual income at or below 125% of the federal poverty level;<sup>2</sup> 125% of the federal poverty level was \$32,750 in fiscal year 2020 and \$33,125 in fiscal year 2021. According to Section 9 of Chapter 221A of the General Laws, MLAC must award at least 80% of General Support Grant funds to local LAOs, which only serve clients in a specific county, city, or town in Massachusetts, and up to 20% can be distributed to statewide LAOs. MLAC also provides funding for the

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1. The Supreme Judicial Court established IOLTA as a program to assist in delivering legal services to clients whose incomes are in the lowest income bracket. This program requires law firms and individual lawyers to hold client deposits in an interest-bearing account from which the interest earned is used to support the program.
  2. The federal poverty guidelines are listed on the United States Department of Health and Human Services’ website.

Disability Benefits Project, the Domestic Violence Legal Assistance Project, and the Medicare Advocacy Project, which are special projects run by LAO staff members.

### General Support and Special Project Funding

Source	Fiscal Year 2020	Fiscal Year 2021
<b>Local LAOs</b>		
De Novo Center for Justice	\$ 153,664	\$ 178,720
Greater Boston Legal Services	6,842,192	7,828,718
Metro West Legal Services	965,868	1,047,024
Community Legal Aid	5,945,356	6,675,802
South Costal Counties Legal Services	3,643,972	4,065,119
Northeast Legal Aid	3,254,504	3,681,055
Children's Law Center of Massachusetts	203,516	235,787
<b>Subtotal*</b>	<b>\$ 21,009,072</b>	<b>\$ 23,712,224</b>
<b>Statewide LAOs</b>		
Center for Law and Education	\$ 206,420	\$ 238,764
Center for Public Representation	386,984	441,184
Children's Law Center of Massachusetts	43,348	50,140
Disability Law Center	595,096	659,781
Mass Advocates for Children	163,072	188,623
Prisoners Legal Services	268,346	310,391
Massachusetts Law Reform	2,559,904	2,948,020
National Consumer Law Center	206,420	238,764
Political Asylum Immigration Representation	61,128	70,708
Veterans Legal Services	122,258	141,414
<b>Subtotal</b>	<b>\$ 4,612,976</b>	<b>\$ 5,287,789</b>
<b>Total</b>	<b>\$ 25,622,048</b>	<b>\$ 29,000,013</b>

\* Any discrepancies in totals are due to rounding.

### LAO Peer Reviews

MLAC uses a peer review model to assess the performance of local and statewide LAOs. MLAC's policy is to select several of its 16 grantees each year on a rotating basis. As MLAC told us, the peer review model consists of MLAC contracting with attorneys outside of Massachusetts to serve as independent

consultants. These are individuals who have work experience with LAOs and backgrounds in organizational evaluations. They assess each organization's operations against a framework of LAO performance standards developed by MLAC (based on the American Bar Association's standards) that focus on the following areas: Strategic and Collaborative Planning Partnership, Development and Utilization of Resources, Client Access, Quality Assurance, Effective Management and Administration, and Governance.

### **Office of the Comptroller of the Commonwealth's Pandemic Response Guidance**

On September 30, 2020, the Office of the Comptroller of the Commonwealth provided guidance in response to the 2019 coronavirus (COVID-19) pandemic for state agencies. The guidance helped state agencies that were experiencing significant changes identify their goals, objectives, and risks associated with COVID-19. Objectives included telework; return-to-office plans; a risk assessment of the impact of COVID-19 on department operations; changes to the business process; safety protocols for employees and visitors; and tracking of COVID-19–related awards and expenditures, which are tracked separately from other federal, state, and local expenditures.



## AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Massachusetts Legal Assistance Corporation (MLAC) for the period July 1, 2019 through June 30, 2021.

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.

Below is a list of our audit objectives, indicating each question we intended our audit to answer; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in the audit findings.

Objective	Conclusion
1. Did MLAC award at least 80% of its General Support Grant funds to local legal aid organizations (LAOs) based on the number of eligible clients in the service area in accordance with Section 9 of Chapter 221A of the General Laws?	Yes
2. Did MLAC conduct peer reviews in accordance with its monitoring process?	No; see Finding <u>1</u>
3. Did MLAC award statewide funding in accordance with its grant awarding process?	Yes
4. Did MLAC update its internal control plan (ICP) to address the impact of the 2019 coronavirus (COVID-19), as required by the Office of the Comptroller of the Commonwealth's (CTR's) "COVID-19 Pandemic Response Internal Controls Guidance"?	No; see Finding <u>2</u>

To achieve our audit objectives, we gained an understanding of the internal controls that we determined to be relevant to the objectives by reviewing MLAC's mission statement, policies, and procedures, as well as conducting interviews with key personnel. To obtain sufficient, appropriate audit evidence to address our audit objectives, we performed the following procedures.

### LAO Grants

To determine whether MLAC awarded at least 80% of General Support Grant funds to LAOs, we obtained the population of grants that were disbursed to local LAOs during our audit period. There were 7 in fiscal year 2020 and 7 in fiscal year 2021, totaling 14 for the audit period. To perform our testing, we obtained

the population of people living in Massachusetts with incomes below 125% of the federal poverty guidelines and calculated the percentages of that population in MLAC's regional areas—Southeast, Northeast, Central West, and Boston—using American Community Survey<sup>3</sup> data for fiscal years 2020 and 2021. For fiscal years 2020 and 2021, there were 935,644 and 917,556 residents in Massachusetts with incomes at or below 125% of the federal poverty level, respectively.

We obtained copies of checks and Automated Clearing House<sup>4</sup> payment reports from MLAC to verify the payment amounts from MLAC to LAOs for fiscal year 2020 and fiscal year 2021. We then compared the amounts paid to the local LAOs to what was on MLAC's General Support and Special Project Grants list, which is the master list of funding approved by MLAC's board, for fiscal year 2020 and fiscal year 2021.

During a visit to the MLAC office, we reviewed supporting documentation for these payments as well as postings (journal entries within MLAC's financial records) by MLAC's fiscal manager to correct overpayments or underpayments discovered during MLAC's reconciliation process.

After we determined the amounts paid to the each LAO, we filtered the payments by region, subtotaled the grants distributed to the local LAOs, and calculated the percentage of grants distributed to the LAOs. We then compared these percentages to our calculated percentages of poverty distribution based on the American Community Service data. Finally, we calculated the percentage of funds paid to local LAOs and paid to statewide LAOs.

## **Statewide LAOs**

We tested 100% of the statewide LAOs funded during our audit period (10 in fiscal year 2020 and 10 in fiscal year 2021). We verified that MLAC had an application for funding on file, a signed assurance form, and a signed contract with board approval for each LAO funded during our audit period. We also verified that the amount on the contract matched the amount distributed on MLAC's General Support and Special Project Grants list to determine whether MLAC funded statewide LAOs in accordance with its grant awarding process.

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3. The American Community Survey is an annual United States Census Bureau survey of community demographics, such as household makeup and income.

4. Automated Clearing House is a system used for electronic fund transfers between consumers or financial institutions.

## **Peer Reviews**

We requested a list of the two peer reviews that were performed during our audit period. For both peer reviews, we reviewed the final peer review reports and the fiscal review documents, both of which are required by MLAC's monitoring process.

## **ICP**

We requested a copy of MLAC's ICP to determine whether MLAC updated it to address the impact of the COVID-19 pandemic as required by CTR's "Internal Control Guide" because COVID-19 had caused a significant change to the work environment. We also examined the copy of the ICP to determine whether it contained the components required by CTR's "COVID-19 Pandemic Response Internal Controls Guidance."

## **Data Reliability Assessment**

We obtained MLAC's fiscal year 2020 and fiscal year 2021 General Support and Special Grants lists. To determine the reliability of the data on the lists, we interviewed management personnel who were responsible for the data. We reviewed 100% of the LAOs on the list and verified that there was a hardcopy signed contract and an application on file for each LAO.

Based on the results of the data reliability procedures performed above, we determined that the data were sufficiently reliable for our audit.

## DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

### 1. The Massachusetts Legal Assistance Corporation conducted a peer review of only one of its legal aid organizations per year.

During our audit, we found that the Massachusetts Legal Assistance Corporation (MLAC) conducted only one peer review per year during the audit period of a legal aid organization (LAO) for which it provided grant support. By not performing multiple peer reviews per year, MLAC cannot ensure that the resources provided to the LAOs are used in the most effective and efficient manner.

#### Authoritative Guidance

MLAC's "Monitoring Process" document states, "MLAC monitors several of its sixteen grantees each year. MLAC's goals for the monitoring process are: 1) To show that the organizations have met a particular level of quality and quantity of services and, 2) To improve the substantive work of organizations."

#### Reasons for Issue

MLAC stated that it only conducted one peer review each year during our audit period because of the 2019 coronavirus (COVID-19) pandemic.

#### Recommendation

We understand there may have been potential challenges associated with the COVID-19 pandemic. Moving forward, MLAC should perform several peer reviews of LAOs each year to help ensure accountability.

#### Auditee's Response

*MLAC's peer review process utilizes attorneys (generally legal aid attorneys who have served as executive directors or in positions in upper management and have retired and now serve as consultants) and subject matter experts to conduct peer reviews.*

*For the past five years it has become increasingly difficult to recruit qualified peer reviewers as legal aid attorneys retire or reduce their consulting workloads. This challenge was significantly exacerbated by the pandemic making it very difficult for MLAC to identify individuals available to serve as peer reviewers and assemble an adequate peer review team. In addition, unusual circumstances disrupted and delayed the usual flow of the peer review process. For example, some executive directors of the legal aid organizations scheduled to be peer reviewed were transitioning out or retiring; one organization experienced a cyber breach; and in some instances, health issues compromised the availability of both legal aid organization staff and peer reviewers. In instances*

*like these the peer reviews had to be significantly delayed or rescheduled to a subsequent year. Additionally, when any peer review needs to be rescheduled or extended it throws the entire peer review schedule and process off. Any changes to the schedule impact and cause strain to the other MLAC departments which provide data, information, and other needed input for each peer review.*

*Peer reviews in [fiscal years 2020 and 2021] were heavily impacted due to the pandemic in addition to other significant unexpected factors as noted above. MLAC is now back on track with its peer review schedule. The [fiscal year 2022] peer review schedule included six organizations. In [fiscal year 2023] four organizations are being peer reviewed. In [fiscal year 2024] five organizations are scheduled to be peer reviewed.*

## **Auditor's Reply**

Based on its response, MLAC is taking measures to address our concerns on this matter.

## **2. MLAC's internal control plan was not updated with a COVID-19 component.**

MLAC's internal control plan (ICP) was not updated with a COVID-19 component as required by the Office of the Comptroller of the Commonwealth's (CTR's) "COVID-19 Pandemic Response Internal Controls Guidance," issued September 30, 2020. MLAC'S ICP was last updated in 2017, before the start of the COVID-19 pandemic.

The absence of an up-to-date ICP may hinder MLAC's effective and efficient achievement of its mission and objectives.

## **Authoritative Guidance**

CTR's "COVID-19 Pandemic Response Internal Controls Guidance" states,

*Department internal control plans must be based on risk assessments and updated annually, or when significant changes occur. Because the COVID-19 Pandemic has affected all departments, The Comptroller, in consultation with the State Auditor's Office, is providing two options for updating internal controls.*

- 1. If the impact to your department is such that it can be reflected in your Internal Control Plan (ICP), then update the ICP as you would for any other mid-year changes.*
- 2. Departments experiencing a significant impact, and requiring the accumulation of substantial documentation (e.g. changes to business processes, requirements of federal and state-specific laws or guidance, new funds or new programs), can draft a separate COVID-19 Pandemic Response Plan Appendix to the ICP as an organized set (hard or soft copies) of emails, documents, risk assessments, policies, and procedures.*

## Reasons for Issue

MLAC did not have policies and procedures, including a monitoring component, to ensure that its ICP was updated when significant changes occurred.

## Recommendation

MLAC should establish policies and procedures, including a monitoring component, to ensure that its ICP is updated when significant changes occur.

## Auditee's Response

*MLAC was not aware of the Office of Comptroller's COVID-19 Pandemic Response Internal Controls Guidance, issued on September 30, 2020, and did not receive a copy. MLAC has been informed that the Comptroller's Office sent an email regarding the Pandemic Response Internal Controls Guidance and sent quarterly updates to state agencies when COVID started regarding the need to update ICPs. MLAC did not receive the email or the quarterly updates from the Comptroller's Office.*

*Despite not receiving the COVID-19 Pandemic Response Internal Controls Guidance, MLAC created a COVID-19 team responsible for reviewing state and CDC guidelines and updating MLAC's safety guidelines and work practices as needed. MLAC implemented COVID-19 safety protocols and guidelines, remote work policies, a temporary optional return to office policy, and a return to office plan. And MLAC tracked COVID-19 related awards and expenditures.*

*MLAC utilizes its internal control plan, financial management and accounting procedures manual and updated financial accounting procedures provided to our auditors each year as its overall control policies. Changes made to MLAC's internal control plan and procedures, including those responsive to the COVID-19 pandemic were made and documented, but not incorporated into MLAC's ICP document.*

*MLAC is a quasi-public agency. Guidance to MLAC by the Office of the Comptroller is needed to determine why MLAC did not receive the COVID-19 Pandemic Response Internal Controls Guidance. Additional guidance is needed to determine to what extent MLAC is expected to conform to policies issued by the Comptroller's Office or other state office's policies and procedures. as a quasi-public agency.*

*Moving forward MLAC will update its internal control plan annually to reflect any changes made to internal control procedures and note when the internal control plan was updated.*

## Auditor's Reply

Based on its response, MLAC is taking measures to address our concerns on this matter.

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## OTHER MATTERS

### **The Massachusetts Legal Assistance Corporation did not ensure that all employees completed annual cybersecurity awareness training.**

The Massachusetts Legal Assistance Corporation (MLAC) did not have documentation to support that its staff members completed cybersecurity awareness training during our audit period. MLAC could not provide the employee list and training records for fiscal year 2020. We received a list of the 20 MLAC employees in fiscal year 2021 and a list of employees who completed cybersecurity awareness training in fiscal year 2021, which we used to determine whether all MLAC employees had completed the cybersecurity awareness training. We found that 6 of the 20 employees on the fiscal year 2021 employee list had not completed the training.

We recognize that MLAC is a quasi-public agency and, therefore, is not required to follow the Executive Office of Technology Services and Security's guidelines. However, as a best practice, MLAC should follow this state office's policies and procedures. The Executive Office of Technology Services and Security's Information Security Risk Management Standard IS.010 requires that all Commonwealth personnel be trained annually for cybersecurity awareness. Section 6.2 of the document states: "The objective of the Commonwealth information security training is to educate users on their responsibility to help protect the confidentiality, availability and integrity of the Commonwealth's information assets."

By not ensuring that all its employees complete annual cybersecurity awareness training, MLAC is exposed to a higher risk of cyberattacks that may result in financial and/or reputation losses.

### **Auditee's Response**

*MLAC requires and provides cyber security awareness training to all its employees, consultants, and [Interest on Lawyers Trust Account] Committee staff.*

*In [fiscal year 2020], all staff were asked to complete cyber security training. However, MLAC was unable to access the training records from the training provider after March 31 that year. We did not understand that MLAC needed to preserve its own records. In addition, the [2019 coronavirus] pandemic hit in mid-March 2020, requiring MLAC's Director of Technology and MLAC's technology support staff to quickly and unexpectedly pivot to provide significant [information technology] support to MLAC staff and to many of our [legal aid organizations] as we all needed to shift to a remote work environment.*

*Again, in [fiscal year 2021] MLAC employees were required to complete the cyber security training by March 31. All report data was compiled as of that date. Any staff who did not complete the*

*training by that date were not included in the cyber security report, even if they completed the training after March 31.*

*In [fiscal year 2022] and [fiscal year 2023] all MLAC employees completed the cyber security training by March 31; MLAC retains those records and will continue to ensure full compliance moving forward.*

### **Auditor's Reply**

Based on its response, MLAC is taking measures to address our concerns on this matter.