



OFFICE OF LEGAL AFFAIRS

## ADVISORY OPINION

Advisory Opinion # AO – 2009-1003

**SUBJ:** Group Eligibility under 45 CFR Part 1611

**DATE:** June 18, 2009

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### *Questions Presented*

May a recipient use LSC funds to provide legal assistance to a group which does not provide services to persons who would be eligible for LSC-funded legal assistance but which provides services to organizations which do provide services to such persons?

### *Brief Answer*

No, LSC funds may not be used to provide legal assistance to a group which does not provide services to persons who would be eligible for LSC-funded legal assistance but which provides services to organizations which do provide services to such persons.

### *Factual Background*

A recipient is interested in providing legal assistance to a group (hereinafter referred to as the “Community Center Organization” or “CCO”) which is funded by and provides administrative and fundraising services to four community centers in the recipient’s service area. Although the community centers provide services to low income persons, the Community Center Organization does not provide any services to such persons, but rather provides services to the community centers on matters such as human resources, information technology, fundraising and resource development. The managing body of the CCO is not primarily comprised of low income persons. There is a private attorney willing to provide pro bono services to the CCO. The question presented is whether the CCO qualifies as an eligible group for the purposes of Part 1611, such that the recipient could provide LSC-funded legal assistance to the CCO.

### *Analysis*

In order to qualify as eligible for LSC-funded legal assistance, a group (which is not primarily comprised of persons who would be eligible themselves as individuals) must: be unable to obtain private counsel; have as a principal activity the delivery of services to low income persons; and the legal assistance must relate to such service delivery activity. 45 CFR §1611.6. All of the criteria set forth above must be met for the grantee to find the group eligible for LSC-funded legal assistance. Under the facts presented, none of the eligibility criteria are met.

First, there is private counsel already acknowledged to be available to the CCO. Second, the CCO does not provide services to low income persons; it provide services to the community centers. Third, since the CCO does not provide services to low income persons, the legal issues it has cannot relate to the delivery of services to low income persons. Accordingly, the CCO cannot be found to be an eligible group client under the requirements of Part 1611. The recipient may, provided that the representation is otherwise permissible, use available non-LSC funds to provide legal assistance to the CCO.

A handwritten signature in blue ink, appearing to read "Victor M. Fortuno". The signature is stylized and somewhat cursive, with a prominent initial "V" and "F".

Victor M. Fortuno  
General Counsel