

LEGAL SERVICES CORPORATION

Board of Directors Meeting

July 21 – 23, 2013

Location:

Warwick Denver Hotel
1776 Grant Street
Denver, Colorado 80203



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I. Schedule

**LEGAL SERVICES CORPORATION BOARD OF DIRECTORS
MEETING SCHEDULE**

JULY 21-23, 2013

**Meeting Location:
Warwick Hotel
1776 Grant Street
Denver, Colorado 80203
PH: (303) 318-7265**

SUNDAY, JULY 21, 2013

Start	End	Meeting/Event	Location
1:30pm	2:45pm	Finance Committee	Millennium Ballroom Warwick Hotel
2:45pm	4:45pm	Audit Committee	Millennium Ballroom Warwick Hotel
4:45pm	6:00pm	Institutional Advancement Committee	Millennium Ballroom Warwick Hotel

**LEGAL SERVICES CORPORATION BOARD OF DIRECTORS
MEETING SCHEDULE
JULY 21-23, 2013**

**Meeting Location:
Warwick Hotel
1776 Grant Street
Denver, Colorado 80203
PH: (303) 318-7265**

MONDAY, JULY 22, 2013

Start	End	Meeting/Event	Location
9:00am	12:15pm	<p style="text-align: center;">Introductory Remarks <i>John G. Levi</i>, Chairman, Legal Services Corporation Board of Directors <i>Chief Justice Michael L. Bender</i>, Colorado Supreme Court</p> <p style="text-align: center;">Panel 1: The Importance of Access to Justice to the Judiciary <i>Chief Justice Michael L. Bender</i>, Colorado Supreme Court <i>Justice E. James Burke</i>, Wyoming Supreme Court <i>Justice Christine M. Durham</i>, Utah Supreme Court <i>Chief Justice Michael G. Heavican</i>, Nebraska Supreme Court <i>Chief Justice Petra Jimenez Maes</i>, New Mexico Supreme Court <i>Judge William Martinez</i>, U.S. District Court for the District of Colorado <i>Robert J. Grey, Jr.</i>, Hunton & Williams Partner, Legal Services Corporation Board Member, and former American Bar Association President (<i>Moderator</i>)</p> <p style="text-align: center;">Panel 2: Legal Services in the Mountain West Region <i>Jon Asber</i>, Executive Director, Colorado Legal Services <i>Jim Cook</i>, Executive Director, Idaho Legal Aid Services <i>Anna Marie Johnson</i>, Executive Director, Nevada Legal Services <i>Ed Marks</i>, Executive Director, New Mexico Legal Aid <i>Anne Milne</i>, Executive Director, Utah Legal Services, Inc.</p>	<p>The Ralph L. Carr Judicial Center Colorado Supreme Court Courtroom 2 East 14th Avenue</p>

		<p><i>Colline Wabkinney-Keely</i>, Executive Director, Oklahoma Indian Legal Services</p> <p><i>James J. Sandman</i>, President, Legal Services Corporation (<i>Moderator</i>)</p>	
1:45pm	3:15pm	<p>Operations & Regulations Committee:</p> <p>Tribal Court Fact Finding Panel</p> <p><i>Howard Belodoff</i>, Associate Director, Indian Unit, Idaho Legal Aid Services</p> <p><i>John Dossett</i>, General Counsel, National Congress of American Indians</p> <p><i>Troy Eid</i>, Chair of the Indian Law and Order Commission</p> <p><i>Commissioner Carole Goldberg</i>, Commissioner of the Indian Law and Order Commission</p> <p><i>Tracy Toulou</i>, Director, Office of Tribal Justice</p> <p><i>Professor Gloria Valencia-Weber</i>, University of New Mexico Law School and Legal Services Corporation Board Member (<i>Moderator</i>)</p>	<p>Millennium Ballroom Warwick Hotel</p>
3:15pm	4:15pm	<p>Operations & Regulations Committee</p>	<p>Millennium Ballroom Warwick Hotel</p>
4:15pm	5:45pm	<p>Promotion & Provision Committee:</p> <p>Presentation by Colorado Legal Services Corporation</p> <p><i>Jon Asher</i>, Executive Director</p> <p><i>Patricia Craig</i>, Administrator, Northwest Colorado Legal Services Project</p> <p><i>Tina Smith</i>, Client-Eligible Board Member, Board of Directors</p>	<p>Millennium Ballroom Warwick Hotel</p>
6:00pm	7:30pm	<p>Pro Bono Awards Reception</p> <p><u>Guest Speakers</u></p> <p><i>W. Terry Ruckriegle</i>, Colorado Bar Association President</p> <p><i>Frederick J. Baumann</i>, Colorado Access to Justice Commission President</p> <p><u>Awardees</u></p> <p><i>Honorable Donald E. Campbell</i> (retired)</p> <p><i>Christina Ebner</i>, Partner, Ebner & Gent, LLC</p> <p><i>Holland & Hart LLP</i></p> <p><i>Ronald Stowell</i>, Managing Partner, Stowell, PC</p>	<p>Colorado Bar Association 1900 Grant Street</p>

		<i>Gina Weitzenkorn, Partner, Mills & Weitzenkorn</i>	
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**LEGAL SERVICES CORPORATION BOARD OF DIRECTORS
MEETING SCHEDULE
JULY 21-23, 2013**

**Meeting Location:
Warwick Hotel
1776 Grant Street
Denver, Colorado 80203
PH: (303) 318-7265**

TUESDAY, JULY 23, 2013

Start	End	Meeting/Event	Location
8:30am	9:30am	Governance & Performance Review Committee	Millennium Ballroom Warwick Hotel
9:30am	11:30am	OPEN Board Meeting	Millennium Ballroom Warwick Hotel
11:30am	12:30pm	CLOSED Board Meeting	Millennium Ballroom Warwick Hotel
1:30pm	4:30pm	<p>Private Attorney Involvement (PAI) Rulemaking Webinar</p> <p><i>Silvia Argueta</i>, Chair, NLADA's Regulations and Policies Committee</p> <p><i>Steve Gottlieb</i>, Executive Director, Atlanta Legal Aid Society</p> <p><i>Judge Mary Katherine Huffman</i>, Greater Dayton Volunteer Lawyers Project</p> <p><i>Joan Kleinberg</i>, Director of Strategic Initiatives and Private Bar Involvement, Northwest Justice Project</p> <p><i>Kenneth Penokie</i>, Executive Director, Legal Services of Northern Michigan</p> <p><i>Lisa Wood</i>, Chair, American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID)</p> <p><i>James J. Sandman</i>, President, Legal Services Corporation (<i>Moderator</i>)</p>	Millennium Ballroom Warwick Hotel

II. Finance Committee

FINANCE COMMITTEE

July 21, 2013

Agenda

OPEN SESSION

1. Approval of agenda
2. Presentation on LSC's financial report for the eight-month period ending May 31, 2013
 - Presentation by David Richardson, Treasurer/Comptroller
3. Consider and act on a Revised Consolidated Operating Budget for FY 2013, including internal budgetary adjustments and COB reallocation, and recommendation of **Resolution 2013-XXX** to the Board of Directors
 - Presentation by David Richardson, Treasurer/Comptroller
4. Report of the selection of accounts and depositories for LSC Funds
 - Presentation by David Richardson, Treasurer & Comptroller
5. Discussion regarding the status of the FY 2014 appropriations process
 - Carol Bergman, Director, Government Relations and Public Affairs
6. Consider and act on the recommendation to the Board on Temporary Operating Authority for FY 2014 and recommendation of **Resolution 2013-XXX** to the Board of Directors
 - David Richardson, Treasurer/Comptroller
7. Consider and act on recommendation to the Board of Directors for FY 2015 appropriation request
 - Presentation by Jim Sandman, President

8. Public comment
9. Consider and act on other business
10. Consider and act on adjournment of meeting

Finance Report for 8 Month Period

FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

TO: Robert J. Grey, Jr., Finance Committee Chairman

FROM: David L. Richardson, Treasurer/Comptroller *dlr*

DATE: July 1, 2013

SUBJECT: May 2013 Financial Reports

The financial reports for the eight-month period ending May 31, 2013, are attached for your review and discussion. There are four worksheets that comprise this report, and we are using the fiscal year (FY) 2013 Consolidated Operating Budget (COB) that was approved at the April Board meeting for our comparisons.

Attachment A provides summary information for each element of the COB in two sections.

Attachment B presents Management and Grants Oversight's (MGO) budget and expenditures.

Attachment C shows the MGO Other Operating Expenses by cost centers.

Attachment D provides budget and expenditures for the Office of Inspector General (OIG).

The first section of Attachment A presents information for the Delivery of Legal Assistance, *Roman numeral I*, and the Herbert S. Garten Loan Repayment Assistance Program (LRAP), *Roman numeral II*. Expenditures are compared to the annual budget, and the report shows the variances for each budget line. Expenditures from the prior year are also reported, and the variances for the two years are shown in the last column.

- I. There are four elements included in the Delivery of Legal Assistance:
 1. The Basic Field Programs budget is \$316,978,614; the grant expenses for this fiscal year are \$316,345,623. The remaining funds of \$632,991 are earmarked for Louisiana for a close-out

audit and for American Samoa, where we do not have a grantee.

2. The U.S. Court of Veterans Appeals Funds budget totals \$2,542,164, and expenses are \$2,363,010. The remaining funds of \$179,154 will be used to increase this year's grant and reimburse LSC for administrative expenses.
3. The Grants from Other Funds budget totals \$546,361, and expenses are \$33,918. An emergency grant of \$33,918 to Legal Services Law Line of Vermont was made in May. The remaining \$512,443 is available for other emergency grants.
4. The Technology Initiatives budget totals \$4,339,908. Net grant expenses are \$951,353 and are comprised of ten grants totaling \$1,010,812 and the recovery of unspent funds on seven grants totaling \$59,459. The remaining funds of \$3,388,555 will be used to support the 2013 TIG competitive grant awards.
5. The Hurricane Sandy Disaster Relief Funds budget totals \$950,000, and there are no expenses. Grant applications for these funds were due on June 21, 2013. We received and are reviewing six grant applications.

- II. The Herbert S. Garten Loan Repayment Assistance Program's budget is \$2,535,050; adjustments to the LRAP receivable account resulted in an increase to the LRAP allowance account and expenses of \$511,824. The remaining \$2,023,226 will be used to make additional LRAP payments this year and the next two years.

The second section of Attachment A presents expenditures for MGO, *Roman numeral III*, and the OIG, *Roman numeral IV*. The expenditures are compared to a pro rata allocation of the annual budget, which is eight months for this report.

- III. MGO's annual budget totals \$21,625,941. The budget is comprised of the MGO operating budget of \$19,403,850, MGO Research Initiative of \$287,191, and MGO Contingency Funds totaling \$1,934,900.

The MGO operating budget allocation for this reporting period is \$12,935,900, and compares to actual expenses of \$10,773,564. MGO is under budget by \$2,162,336, or

16.72%. The expenditures are \$294,801 more than the same period in FY 2012. The encumbrances for the period are \$139,569. In April, MGO expenses were under budget by \$1,886,712, or 16.67%.

The MGO Research Initiative budget allocation (Public Welfare Foundation grant) is \$191,461, and expenses are \$45,412. The iScale and Keystone Accountability contract has a balance of \$208,333, which is the amount of the encumbrance.

The MGO Contingency Funds budget allocation is \$1,289,933, and there are no expenses against these funds.

- IV. The OIG's annual budget totals \$5,825,631. The budget consists of the OIG operating budget of \$5,500,000 and Contingency Funds of \$325,631.

The OIG operating budget allocation is \$3,666,667, and compares to actual expenses of \$3,064,227. The OIG is under budget by \$599,440, or 16.35%. The expenditures are \$112,951 more than the same period in FY 2012. The encumbrances for the period are \$95,632. In April, the OIG was under budget by \$522,655, or 16.29%.

The OIG Contingency Funds budget allocation is \$217,087, and there are no expenses against these funds.

Attachment B, page 1, presents comparative budgets and expenditures for MGO by cost center; all cost centers are under budget. Attachment B, page 2, shows the budgets and expenditures by budget category for the MGO operating budget, and all the categories are under budget.

The largest variance under budget is in the Compensation and Benefits category in the amount of \$1,163,357. This amount is attributable to unfilled positions and represents 53.80% of this month's variance. The budgeted open positions by cost center are as follows:

Executive Office – Administrative Assistant for the Chief Development Officer (this position has not been posted);

Human Resources – Administrative Assistant (we are advertising for this position and an agency temporary employee is currently performing the responsibilities);

Government Relations/Public Affairs – Web Content Manager (this position was posted on June 19);

Program Performance – Two Program Counsels (we are interviewing candidates for these positions), Program Analyst position (this position has not been posted); and

Compliance and Enforcement – Two Program Counsels (these positions have not been posted), and four Fiscal Compliance Specialist (two positions have now been filled – one started on June 16 and the other to begin in early July and the other two positions have been posted.)

Attachment B, page 3, shows the MGO Contingency Funds budget categories. Attachment B, page 4, provides a summary of the expenditures by office and by budget category.

Attachment C, pages 1 and 2, presents a breakdown of the other operating expenses by account code and by cost center.

Attachment D, page 1, compares the OIG budget and expenditures by budget category and all are under budget. The largest variance under budget is for compensation and benefits, totaling \$263,992. This variance is attributable to unfilled positions, and is 44.04% of this month's variance.

Attachment D, page 2, shows the OIG Contingency Funds. The unused OIG Contingency Funds are earmarked for the multi-year budget plan.

If you have any questions, please let me know.

Attachments (A – B – C - D)

LEGAL SERVICES CORPORATION
 CONSOLIDATED OPERATING BUDGET WORKSHEET
 FOR THE EIGHT-MONTH PERIOD ENDING MAY 31, 2013
 FOR FISCAL YEAR 2013

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	F I S C A L Y E A R 2 0 1 3						C O M P A R A T I V E	
	ANNUAL BUDGET	ACTUAL	ANNUAL BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUM- BRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
I. DELIVERY OF LEGAL ASSISTANCE								
1. Basic Field Programs	\$316,978,614	\$316,345,623	\$316,978,614	\$632,991	0.20	\$0	\$323,213,547	(\$6,867,924)
2. US Court of Vets Appeals Funds	2,542,164	2,363,010	2,542,164	179,154	7.05	-	2,700,000	(336,990)
3. Grants From Other Funds	546,361	33,918	546,361	512,443	93.79	-	253,346	(219,428)
4. Technology Initiatives	4,339,908	951,353	4,339,908	3,388,555	78.08	-	3,553,984	(2,602,631)
5. Hurricane Sandy Disaster Relief Funds	950,000	-	950,000	950,000	100.00	-	-	-
TOTAL DELIVERY OF LEGAL ASSISTANCE	325,357,047	\$319,693,904	\$325,357,047	\$5,663,143	1.74	\$0	\$329,720,877	(\$10,026,973)
II. HERBERT S. GARTEN LOAN REPAYMENT ASSISTANCE PROGRAM								
	2,535,050	511,824	2,535,050 *	2,023,226	79.81	0	0	511,824
	ANNUAL BUDGET	ACTUAL	EIGHT TWELFTHS OF THE FY 2013 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUM- BRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
III. MANAGEMENT & GRANTS OVERSIGHT								
1. M & G O Operating Budget	\$19,403,850	\$10,773,564	\$12,935,900	\$2,162,336	16.72	\$139,569	\$10,478,763	\$294,801
2. M & G O Research Initiative	287,191	45,412	191,461	146,049	76.28	208,333	0	45,412
3. M & G O Contingency Funds	1,934,900	0	1,289,933	1,289,933	100.00	0	0	0
TOTAL MANAGEMENT & GRANTS OVERSIGHT	21,625,941	10,818,976	14,417,294	3,598,318	24.96	347,902	10,478,763	340,213
IV. INSPECTOR GENERAL								
1. I G Operating Budget	5,500,000	3,067,227	3,666,667	599,440	16.35	95,632	2,954,276	112,951
2. I G Contingency Funds	325,631	0	217,087	217,087	100.00	0	0	0
TOTAL INSPECTOR GENERAL	5,825,631	3,067,227	3,883,754	816,527	21.02	95,632	2,954,276	112,951
TOTAL	\$355,343,669	\$334,091,931	\$346,193,145	\$12,101,214		\$443,534	\$343,153,916	(\$9,061,985)

* \$386,628 LRAP ACCOUNTS RECEIVABLE

LEGAL SERVICES CORPORATION
CONSOLIDATED OPERATING BUDGET WORKSHEET
FOR THE EIGHT-MONTH PERIOD ENDING MAY 31, 2013
FOR FISCAL YEAR 2013

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	F I S C A L Y E A R 2 0 1 3						C O M P A R A T I V E	
	ANNUAL BUDGET	ACTUAL	EIGHT TWELFTHS OF THE FY 2013 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUM- BRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
III. MANAGEMENT & GRANTS OVERSIGHT								
1. Board of Directors	\$427,900	\$180,497	\$285,267	\$104,770	36.73	\$0	\$229,182	(\$48,685)
2. Executive Office	1,160,700	588,098	773,800	185,702	24.00	5,700	359,899	228,199
3. Legal Affairs	1,286,700	644,845	857,800	212,955	24.83	14,892	769,218	(124,373)
4. Government Relations/Public Affairs	1,146,400	669,093	764,267	95,174	12.45	13,673	521,720	147,373
5. Human Resources	883,650	468,318	589,100	120,782	20.50	57,593	470,661	(2,343)
6. Financial & Admin Services	3,273,600	2,011,884	2,182,400	170,516	7.81	37,685	2,002,763	9,121
7. Information Technology	1,732,850	926,355	1,155,233	228,878	19.81	7,020	984,121	(57,766)
8. Program Performance	4,381,600	2,697,280	2,921,067	223,787	7.66	3,006	2,466,087	231,193
9. Information Management	598,850	382,085	399,233	17,148	4.30	-	401,476	(19,391)
10. Compliance & Enforcement	4,511,600	2,205,109	3,007,733	802,624	26.69	-	2,273,636	(68,527)
MANAGEMENT & GRANTS OVERSIGHT SUBTOTAL	\$19,403,850	\$10,773,564	\$12,935,900	\$2,162,336	16.72	\$139,569	\$10,478,763	\$294,801
11. M & G O Research Initiative	287,191	45,412	191,461	146,049	76.28	208,333	-	45,412
12. M & G O Contingency Funds	1,934,900	-	1,289,933	1,289,933	100.00	-	-	-
TOTAL MANAGEMENT & GRANTS OVERSIGHT	\$21,625,941	\$10,818,976	\$14,417,294	\$3,598,318	24.96	\$347,902	\$10,478,763	\$340,213

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE EIGHT-MONTH PERIOD ENDING MAY 31, 2013
FOR FISCAL YEAR 2013
MANAGEMENT AND GRANTS OVERSIGHT

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	
	ANNUAL BUDGET	ACTUAL	EIGHT TWELFTHS OF THE FY 2013 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUM- BRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)	
		FISCAL YEAR 2013						COMPARATIVE	
TOTAL COMP./BENEFITS	13,693,475	7,965,625	9,128,980	1,163,355	12.74	-	7,709,069	256,556	
TEMP. EMPLOYEE PAY	701,600	364,214	467,734	103,520	22.13	-	238,462	125,752	
CONSULTING	761,905	255,662	507,937	252,275	49.67	68,959	342,135	(86,473)	
TRAVEL/TRANSPORTATION EXPS	1,211,895	451,223	807,930	356,707	44.15	-	458,540	(7,317)	
COMMUNICATIONS	123,400	48,582	82,267	33,685	40.95	-	56,546	(7,964)	
OCCUPANCY COST	1,722,100	1,140,611	1,148,067	7,456	0.65	-	1,140,500	111	
PRINTING & REPRODUCTION	92,100	32,640	61,401	28,761	46.84	29,301	39,388	(6,748)	
OTHER OPERATING EXPENSES	888,125	479,665	592,084	112,419	18.99	35,585	437,159	42,506	
CAPITAL EXPENDITURES	209,250	35,342	139,500	104,158	74.67	5,724	56,964	(21,622)	
TOTAL	\$19,403,850	10,773,564	12,935,900	2,162,336	16.72	\$139,569	10,478,763	294,801	

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE EIGHT-MONTH PERIOD ENDING MAY 31, 2013
FOR FISCAL YEAR 2013
MANAGEMENT AND GRANTS OVERSIGHT CONTINGENCY FUNDS

BUDGET CATEGORY	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	ANNUAL BUDGET	ACTUAL	FISCAL YEAR 2013			ENCUM- BRANCES	C O M P A R A T I V E	
			EIGHT TWELFTHS OF THE FY 2013 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)		PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
TOTAL COMP./BENEFITS	\$650,000	-	433,333	433,333		-	-	-
TEMP. EMPLOYEE PAY	-	-	-	-		-	-	-
CONSULTING	-	-	-	-		-	-	-
TRAVEL/TRANSPORTATION EXPS	-	-	-	-		-	-	-
COMMUNICATIONS	-	-	-	-		-	-	-
OCCUPANCY COST	-	-	-	-		-	-	-
PRINTING & REPRODUCTION	-	-	-	-		-	-	-
OTHER OPERATING EXPENSES	1,284,900	-	856,600	856,600		-	-	-
CAPITAL EXPENDITURES	-	-	-	-		-	-	-
TOTAL	\$1,934,900	-	1,289,933	1,289,933		\$0	-	-

LEGAL SERVICES CORPORATION
OPERATING EXPENSES FOR FISCAL YEAR 2013
FOR THE EIGHT-MONTH PERIOD ENDING MAY 31, 2013
FISCAL YEAR 2013
MANAGEMENT AND GRANTS OVERSIGHT

BUDGET CATEGORY	BOARD OF DIRECTORS	EXECUTIVE OFFICE	LEGAL AFFAIRS	GOV'T REL PUBLIC AFFS	HUMAN RESOURCES	OFFICE FINANCIAL & ADMIN SRVCS
COMPENSATION & BENEFITS	-	552,395	532,323	620,932	403,562	616,326
TEMPORARY EMPLOYEE PAY	-	12,024	30,321	12,437	10,470	-
CONSULTING	47,532	-	57,163	600	36,081	845
TRAVEL/TRANSPORTATION EXPS	99,007	21,038	4,037	16,521	2,301	3,250
COMMUNICATIONS	1,595	2,547	1,762	2,550	573	2,398
OCCUPANCY COST	-	-	-	-	-	1,140,000
PRINTING & REPRODUCTION	-	-	485	-	-	32,155
OTHER OPERATING EXPENSES	32,363	94	18,754	16,053	15,331	215,010
CAPITAL EXPENDITURES	-	-	-	-	-	1,900
TOTAL	\$180,497	\$588,098	\$644,845	\$669,093	\$468,318	\$2,011,884
BUDGET CATEGORY	INFORMATION TECHNOLOGY	PROGRAM PERFORMANCE	INFORMATION MANAGEMENT	COMPLIANCE & ENFORCEMENT	TOTAL MGT & GRANTS OVERSIGHT	
COMPENSATION & BENEFITS	719,076	2,145,946	365,274	2,009,791	7,965,625	
TEMPORARY EMPLOYEE PAY	-	221,744	-	77,218	364,214	
CONSULTING	910	95,206	-	17,325	255,662	
TRAVEL/TRANSPORTATION EXPS	6,642	204,612	-	93,815	451,223	
COMMUNICATIONS	21,333	9,063	-	6,761	48,582	
OCCUPANCY COST	-	611	-	-	1,140,611	
PRINTING & REPRODUCTION	-	-	-	-	32,640	
OTHER OPERATING EXPENSES	144,952	20,098	16,811	199	479,665	
CAPITAL EXPENDITURES	33,442	-	-	-	35,342	
TOTAL	\$926,355	\$2,697,280	\$382,085	\$2,205,109	10,773,564	

OTHER OPERATING EXPENSES FOR THE EIGHT-MONTH PERIOD ENDING MAY 31, 2013				
	ANNUAL BUDGET	ACTUAL	EIGHT TWELFTHS OF THE FY 2013 BUDGET	UNDER / (OVER) BUD VS ACT VARIANCE
	\$888,125.00	479,665.00	592,084.00	112,419.00

ACCOUNT CODES	DESCRIPTION	COST CENTERS		YTD EXPENSE
		BOARD OF DIRECTORS	14,545.33	
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	1,582.86	
		FINANCIAL & ADMIN SERVICES	5,775.45	
		INFORMATION TECHNOLOGY	82,697.73	
5600	EQUIPMENT RENTAL	TOTAL		104,601.37
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	412.93	
		HUMAN RESOURCES	420.90	
		FINANCIAL & ADMIN SERVICES	32,986.81	
		INFORMATION TECHNOLOGY	16,968.78	
		INFORMATION MANAGEMENT	39.32	
5610	OFFICE SUPPLIES	TOTAL		50,828.74
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	525.10	
		HUMAN RESOURCES	588.75	
		FINANCIAL & ADMIN SERVICES	3,984.89	
		INFORMATION TECHNOLOGY	9,513.23	
5611	OFFICE EQUIPMENT	TOTAL		14,611.97
		FINANCIAL & ADMIN SERVICES	118,965.08	
5620	COMMERICAL INSURANCE	TOTAL		118,965.08
		LEGAL AFFAIRS	13,239.00	
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	12,790.96	
		HUMAN RESOURCES	995.80	
		FINANCIAL & ADMIN SERVICES	19,247.12	
		INFORMATION TECHNOLOGY	35,526.43	
5640	DATA PROCESSING	TOTAL		81,799.31

OTHER OPERATING EXPENSES FOR THE EIGHT-MONTH PERIOD ENDING MAY 31, 2013				
	ANNUAL BUDGET	ACTUAL	EIGHT TWELFTHS OF THE FY 2013 BUDGET	UNDER / (OVER) BUD VS ACT VARIANCE
	\$888,125.00	479,665.00	592,084.00	112,419.00

ACCOUNT CODES	DESCRIPTION	COST CENTERS		YTD EXPENSE
		BOARD OF DIRECTORS	17,670.00	
		LEGAL AFFAIRS	0.00	
		HUMAN RESOURCES	9,559.80	
		OFFICE OF PROGRAM PERFORMANCE	18,897.52	
5650	ADVERTISING & CLIPPING SERVICES	TOTAL		46,127.32
		LEGAL AFFAIRS	265.00	
5660	DUES & MEMBERSHIPS	TOTAL		265.00
		LEGAL AFFAIRS	5,249.98	
		HUMAN RESOURCES	39.95	
		FINANCIAL & ADMIN SERVICES	425.00	
		OFFICE OF PROGRAM PERFORMANCE	1,200.00	
		INFORMATION MANAGEMENT	10,157.75	
		OFFICE OF COMPLIANCE AND ENFORCEMENT	199.18	
5670	SUBSCRIPTIONS	TOTAL		17,271.86
		EXECUTIVE OFFICE	19.48	
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	78.25	
		HUMAN RESOURCES	1,674.27	
		FINANCIAL & ADMIN SERVICES	21,598.00	
5680	EMPLOYEE LECTURES/OTHER ACT.	TOTAL		23,370.00
		BOARD OF DIRECTORS	147.50	
		EXECUTIVE OFFICE	75.00	
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	663.00	
		HUMAN RESOURCES	2,051.25	
		FINANCIAL & ADMIN SERVICES	12,028.31	
		INFORMATION TECHNOLOGY	246.00	
		INFORMATION MANAGEMENT	6,613.75	
5690	OFFICE EXPENSES	TOTAL		21,824.81
TOTAL OTHER OPERATING EXPENSES				<u><u>\$479,665.46</u></u>

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE EIGHT-MONTH PERIOD ENDING MAY 31, 2013
FOR FISCAL YEAR 2013
INSPECTOR GENERAL

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	FISCAL YEAR 2013						COMPARATIVE	
	ANNUAL BUDGET	ACTUAL	EIGHT TWELFTHS OF THE FY 2013 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUM- BRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
TOTAL COMP./BENEFITS	\$4,363,500	2,645,006	2,908,999	263,993	9.08	-	2,512,493	132,513
TEMP. EMPLOYEE PAY	25,000	2,678	16,667	13,989	83.93	-	22,647	(19,969)
CONSULTING	550,000	220,682	366,667	145,985	39.81	86,056	194,914	25,768
TRAVEL/TRANSPORTATION EXPS	321,600	143,609	214,400	70,791	33.02	9,576	137,422	6,187
COMMUNICATIONS	28,000	12,486	18,667	6,181	33.11	-	13,126	(640)
OCCUPANCY COST	4,000	-	2,667	2,667	100.00	-	-	-
PRINTING & REPRODUCTION	12,000	5,424	8,000	2,576	32.20	-	5,006	418
OTHER OPERATING EXPENSES	100,900	28,709	67,267	38,558	57.32	-	30,228	(1,519)
CAPITAL EXPENDITURES	95,000	8,633	63,333	54,700	86.37	-	38,440	(29,807)
TOTAL	\$5,500,000	3,067,227	3,666,667	599,440	16.35	95,632	2,954,276	112,951

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE EIGHT-MONTH PERIOD ENDING MAY 31, 2013
FOR THE FISCAL YEAR 2013
INSPECTOR GENERAL CONTINGENCY FUNDS

BUDGET CATEGORY	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	#
	ANNUAL BUDGET	ACTUAL	FISCAL YEAR 2013			ENCUM- BRANCES	C O M P A R A T I V E		
			EIGHT TWELTHS OF THE FY 2013 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)		PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)	
TOTAL COMP./BENEFITS	-	-	-	-	-	-	-	-	-
TEMP. EMPLOYEE PAY	-	-	-	-	-	-	-	-	-
CONSULTING	-	-	-	-	-	-	-	-	-
TRAVEL/TRANSPORTATION EXPS	-	-	-	-	-	-	-	-	-
COMMUNICATIONS	-	-	-	-	-	-	-	-	-
OCCUPANCY COST	-	-	-	-	-	-	-	-	-
PRINTING & REPRODUCTION	-	-	-	-	-	-	-	-	-
OTHER OPERATING EXPENSES	\$325,631	-	217,087	217,087		-	-	-	-
CAPITAL EXPENDITURES	-	-	-	-		-	-	-	-
TOTAL	\$325,631	-	217,087	217,087		\$0	-	\$0	

**Revised Consolidated Operating Budget
FY 2013**

FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

TO: Robert J. Grey, Jr., Finance Committee Chairman

FROM: David L. Richardson, Treasurer/ Comptroller *dlr*

DATE: July 3, 2013

SUBJECT: Revised Fiscal Year ("FY") 2013 Consolidated Operating Budget ("COB") & Internal Budgetary Adjustments

The Board of Directors approved a COB for FY 2013 totaling \$355,343,669 at the April Board Meeting. Since that time, we have received information from the Department of Treasury rounding differently from our calculation and reducing our funding by \$1. Additionally, the U.S. Court of Veterans Claims funding was reduced by \$13,593. These two reductions decrease our COB to \$355,330,075.

Following Section 3 of LSC's *Guidelines for Adoption, Review and Modification of the Consolidated Operating Budget (Guidelines)*, office directors have reviewed their offices' budgets and expenses for the seven-month period ending April 30, 2013, and provided a projection of spending for the remainder of the fiscal year. As a result of this process, the President has authorized several changes.

- Executive Office ("EO") – The Temporary Employee Pay budget line needed an additional \$12,500 to cover the cost of an agency temporary employee and the fee incurred to hire the Executive Assistant who supports the President, Vice President for Grants Oversight, Chief of Staff, and Special Assistant to the President. In addition, there are startup costs associated with the work of the Chief Development Officer: (1) Consulting expenses of \$9,500 for a firm that specializes in filing state registrations for fundraising solicitations and (2) Other Operating Expenses of \$10,000 to pay for state registration fees and specialized software. The total of \$32,000 for all of these expenses was available from Personnel Compensation and Benefits budget within the EO because of open positions.

- Legal Affairs (“OLA”) – Temporary Employee Pay is increased by \$60,000 to fund a temporary staff attorney while the office is in transition. These funds are available from Personnel Compensation and Benefits within OLA budget because of an open position that the office is close to filling.
- Government Relations/Public Affairs (“GRPA”) – Temporary Employee Pay increased by \$12,500 to fund a Research Assistant. In addition, Travel and Transportation was increased by \$5,000 to fund the travel of a staff member for the purpose of videotaping presentations at Board meetings so that they can be posted on our website and made widely available. These funds are available within the Personnel Compensation and Benefits category of the GRPA budget because of an open position.
- Human Resources (“OHR”) – Temporary Employee Pay increased by \$8,000 to continue the funding of a temporary position through an agency while the search for a person for a regular position is being conducted. These funds are available from Personnel Compensation and Benefits within the OHR budget because of an open position.
- Financial and Administrative Services (“OFAS”) — Personnel Compensation and Benefits was increased by \$35,000 due to an employee transfer between offices. The Travel Coordinator was originally budgeted in the Office of Program Performance and has been transferred to OFAS because she has assumed LSC-wide responsibilities. The OPP Compensation and Benefits budget category was reduced and the funds were moved to OFAS.
- Information Technology (“OIT”) – The Chief Information Officer (“CIO”) continues to reshape the office’s priorities, which affects the spend requirements of the office. The Consulting budget increased by \$10,000 to provide for a review of our computer systems. The Travel budget category was increased by \$10,000 to cover relocation costs for the CIO. These funds are available from the Other Operating Expenses budget category within the OIT budget.
- Office of Program Performance (“OPP”) – Temporary Employee Pay is increased by \$25,000. Because of open positions, more temporary employees have been needed to complete planned trips. OPP is interviewing to fill the open positions. Compensation and Benefits was reduced to address this need.

FY 2013 Office of Inspector General ("OIG") Budget Review

The OIG conducted a review of expenses, and there are no adjustments to the budget.

We ask that you approve the attached resolution for the COB with the changes discussed above. Attachment A presents the COB by line item and Attachment B summarizes each office's budget by budget category.

If you have any questions or need additional information, please let me know.

Attachments (3)

Resolution
Attachment A
Attachment B

Legal Services Corporation
 Proposed Revised Consolidated Operating Budget
 For Fiscal Year 2013

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	FY 2013 APPROPRIATIONS & SUPPLEMENTAL FUNDING	FY 2013 RECESSION 1.8770%	FY 2013 RECESSION 0.2000%	FY 2013 SEQUESTRATION 5.00%	FY 2013 FUNDING	FY 2012 CARRYOVER	FY 2013 COMSOLIDATED OPERATING BUDGET	ADJUSTMENTS	FY 2013 COMSOLIDATED OPERATING BUDGET
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I. DELIVERY OF LEGAL ASSISTANCE									

1. Basic Field Programs	\$ 339,400,000	\$ (6,370,538)	\$ (666,059)	\$ (16,218,654)	\$ 316,144,749	\$ 833,865	\$ 316,978,614	\$ -	\$ 316,978,614
2. U.S. Court of Veterans Appeals Funds	2,726,000	(51,167)	(5,350)	(136,318)	2,533,165	8,999	2,542,164	(13,593)	2,528,571
3. Grants From Other Funds	-	-	-	-	-	546,361	546,361	-	546,361
4. Technology Initiatives	3,400,000	(63,818)	(6,672)	(171,040)	3,158,470	1,181,438	4,339,908	-	4,339,908
5. Hurricane Sandy Disaster Relief Funds	1,000,000	-	-	(50,000)	950,000	-	950,000	-	950,000
	-----	-----	-----	-----	-----	-----	-----	-----	-----
DELIVERY OF LEGAL ASSISTANCE TOTALS	346,526,000	(6,485,523)	(678,081)	(\$16,576,012)	322,786,384	2,570,663	\$325,357,047	(13,593)	325,343,454
II. HERBERT S. GARTEN									
LOAN REPAYMENT ASSISTANCE PROGRAM									
	1,000,000	(18,770)	(1,962)	(50,306)	928,962	1,606,088	2,535,050	-	2,535,050

III. MANAGEMENT & GRANTS OVERSIGHT									

1. M & G O Operations	17,000,000	-	-	-	17,000,000	2,403,850	19,403,850	(1)	19,403,849
2. M & G O Research Initiative	-	-	-	-	-	287,191	287,191	-	287,191
3. M & G O Contingency Funds	-	(319,090)	(33,362)	(855,203)	(1,207,655)	3,142,555	1,934,900	-	1,934,900
	-----	-----	-----	-----	-----	-----	-----	-----	-----
MANAGEMENT & GRANTS OVERSIGHT TOTALS	17,000,000	(319,090)	(33,362)	(855,203)	15,792,345	5,833,596	21,625,941	(1)	21,625,940
IV. INSPECTOR GENERAL									

1. IG Operations	4,200,000	-	-	-	4,200,000	1,300,000	5,500,000	-	5,500,000
2. IG Contingency Funds	-	(78,834)	(8,242)	(211,285)	(298,361)	623,992	325,631	-	325,631
	-----	-----	-----	-----	-----	-----	-----	-----	-----
INSPECTOR GENERAL TOTALS	4,200,000	(78,834)	(8,242)	(211,285)	3,901,639	1,923,992	5,825,631	-	5,825,631
	-----	-----	-----	-----	-----	-----	-----	-----	-----
TOTAL BUDGET	\$ 368,726,000	\$ (6,902,217)	\$ (721,647)	\$ (17,692,806)	\$ 343,409,330	\$ 11,934,339	\$ 355,343,669	\$ (13,594)	\$ 355,330,075
	=====	=====	=====	=====	=====	=====	=====	=====	=====

**LEGAL SERVICES CORPORATION
REVISED CONSOLIDATED OPERATING BUDGET
FOR MANAGEMENT AND GRANTS OVERSIGHT
AND INSPECTOR GENERAL
FOR FISCAL YEAR 2013**

BUDGET CATEGORY	BOARD OF DIRECTORS	EXECUTIVE OFFICES	LEGAL AFFAIRS	GOVERNMENT RELATIONS & PUB AFFS	HUMAN RESOURCES	OFFICE FINANCIAL & ADMIN SRVCS
COMPENSATION & BENEFITS	0	1,019,300	903,750	996,900	693,650	1,041,100
TEMP. EMPLOYEE PAY	0	23,000	74,550	35,600	22,500	2,600
CONSULTING	133,200	9,500	250,000	41,500	103,400	5,000
TRAVEL & TRANSPORTATION	240,600	91,500	16,400	30,825	27,100	16,200
COMMUNICATIONS	6,000	6,900	5,350	4,550	2,600	19,700
OCCUPANCY COSTS	0	0	0	0	0	1,720,000
PRINTING & REPRODUCTION	0	100	500	7,000	0	85,000
OTHER OPERATING EXPENSES	48,100	10,400	36,150	30,025	34,400	369,000
CAPITAL EXPENDITURES	0	0	0	0	0	50,000
TOTAL	427,900	1,160,700	1,286,700	1,146,400	883,650	3,308,600

BUDGET CATEGORY	INFORMATION TECHNOLOGY	PROGRAM PERFORM	INFORMATION MANGEMENT	COMPLIANCE & ENFORCE	MGT & GRNTS OVERSIGHT	INSPECTOR GENERAL
COMPENSATION & BENEFITS	1,113,050	3,507,075	562,850	3,712,800	13,550,475	4,363,500
TEMP. EMPLOYEE PAY	0	377,750	0	276,100	812,100	25,000
CONSULTING	79,600	95,000	0	60,000	777,200	550,000
TRAVEL & TRANSPORTATION	40,650	323,025	5,000	444,800	1,236,100	321,600
COMMUNICATIONS	40,400	21,100	100	16,700	123,400	28,000
OCCUPANCY COSTS	0	2,100	0	0	1,722,100	4,000
PRINTING & REPRODUCTION	0	0	0	0	92,600	12,000
OTHER OPERATING EXPENSES	299,900	20,550	30,900	1,200	880,625	100,900
CAPITAL EXPENDITURES	159,250	0	0	0	209,250	95,000
TOTAL	1,732,850	4,346,600	598,850	4,511,600	19,403,850	5,500,000



BOARD OF DIRECTORS

RESOLUTION

**Consolidated Operating Budget and
For Fiscal Year 2013**

WHEREAS, the Legal Services Corporation (LSC) Board of Directors (Board) has reviewed information regarding the Fiscal Year (FY) 2013 appropriation, the U.S Court of Veterans Appeals grant, and the FY 2012 carryover. The funds available for the Revised Consolidated Operating Budget (COB) include funds from:

- 1) The Consolidated and Further Continuing Appropriations Act of 2013 Resolution, reduced by \$1 to \$339,926,164;
- 2) Hurricane Sandy Disaster Relief of \$950,000;
- 3) U.S. Court of Veterans Appeals Funds reduced by \$13,593 to \$2,519,572;
- 4) Carryover in the amount of \$11,934,339, which is comprised of:
 - a. Basic Field Programs carryover of \$833,865;
 - b. U.S. Court of Veterans Appeals of \$8,999;
 - c. Grants from Other Funds of \$546,361;
 - d. Technology Initiative Grant funds of \$1,181,438;
 - e. Herbert S. Garten Loan Repayment Assistance Program of \$1,606,088;
 - f. Management and Grants Oversight of \$5,833,596; and
 - g. Office of Inspector General of \$1,923,992; and

WHEREAS, Management and the Inspector General recommend that a COB be adopted reflecting the funds available;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts a COB for FY 2013 totaling \$355,330,075 of which \$325,343,454 is for the *Delivery of Legal Assistance*; \$2,535,050 is for the *Herbert S. Garten Loan Repayment Assistance Program*; \$21,625,940 is for *Management Grants Oversight*; and \$5,825,631 is for the *Office of Inspector General*, as reflected in the attached documents; and

**Adopted by the Board of Directors
On July 23, 2013**

John G. Levi
Chairman

Ronald S. Flagg
*Vice President for Legal Affairs,
General Counsel, and
Corporate Secretary*

Selection of Accounts & Depositories for LSC Funds

FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

TO: Robert J. Grey, Jr., Finance Committee Chairman

FROM: David L. Richardson, Treasurer/Comptroller *dlr*

cc: Jim Sandman

DATE: June 14, 2013

SUBJECT: Review of the Selection and Depositories for LSC Funds

We are again reviewing our banking situation. Section 31.25 (a) of our lease provides, "So long as the holder of the Senior Instrument is a bank (the "bank") that is providing commercially reasonable services at commercially reasonable rates, Tenant agrees that it will maintain its primary operating accounts with the Bank."

The Friends of Legal Services Corporation ("Friends") began a process over 18 months ago to change banks because of rising interest rates, unsatisfactory negotiations for a new contract with its current bank, and the risk of maintaining credit at a bank that may be subject to ratings downgrades. After reviewing the proposals from seven banks, Friends narrowed its consideration to two and asked them for their best and final offers. Each of these banks also reviewed LSC's banking needs and provided an analysis of our December, January, and February statements. Our review of the services offered and charges proposed shows that each bank would be at a much lower cost to LSC than the current bank.

Friends decided to select TD Bank to provide their future banking and credit needs. TD Bank can serve LSC's banking needs and provide services comparable to those we are receiving from our current bank with a savings of over \$4,500 per year.

Board Resolution 2012-003 requires that the LSC president and I discuss strategy regarding the banking needs of LSC each year and that we provide a report to the Finance Committee. Prior to making any significant changes in the handling of LSC funds, such as changing investment options, a written record needs to be created documenting the reasons for the change. The President must agree to the action and must provide a written notice of the same to the Chair of LSC's Finance Committee. This memorandum reflects our compliance with this resolution.

If you have any questions, please let me know.

Temporary Operating Authority FY 2014



FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

TO: Robert J. Grey, Jr., Finance Committee Chairman

FROM: David L. Richardson, Treasurer/ Comptroller *dlr*

DATE: June 26, 2013

SUBJECT: Temporary Operating Authority

This is the last scheduled quarterly Board of Directors' meeting prior to the beginning of Fiscal Year ("FY") 2014 on October 1, 2013. Because of this, resolution 2013-0XX has been prepared for your consideration to authorize Temporary Operating Authority with a Temporary Operating Budget (TOB) of \$355,330,075. This amount equals the FY 2013 Consolidated Operating Budget.

Management is asking that you approve this resolution and recommend it to the Board of Directors. At the next scheduled Board meeting in October, we will present a Temporary Operating Budget for FY 2014.

If you have any questions, prior to the meeting, please do not hesitate to contact me.

Attachment (Resolution)

RESOLUTION
Temporary Operating Authority
For Fiscal Year 2014

WHEREAS, the Legal Services Corporation ("LSC") Board of Directors (Board) has reviewed information regarding the status of fiscal year ("FY") 2014;

WHEREAS, the Board of Directors desires LSC to continue operations: and

NOW, THEREFORE, BE IT RESOLVED that the Board hereby grants Temporary Operating Authority with a Temporary Operating Budget for FY 2014 of \$355,330,075 of which \$325,343,454 is for the *Delivery of Legal Assistance*; \$2,535,050 is for the *Herbert S Garten Loan Repayment Assistance Program*; \$21,625,940 is for *Management and Grants Oversight*; and \$5,825,631 is for the *Office of Inspector General*.

**Adopted by the Board of Directors
on July 23, 2013**

John G. Levi
Chairman

Ronald S. Flagg
Vice President for Legal Affairs,
General Counsel, and Corporate Secretary

III. Audit Committee

AUDIT COMMITTEE

July 21, 2013

Agenda

Open Session

1. Approval of agenda
2. Report on Management activities for grantee training
 - Lynn Jennings, Vice President for Grants Management
3. Briefing by Office of Inspector General
 - Jeffrey Schanz, Inspector General
4. Further discussion regarding risk assessment by Management and the Office of Inspector General
 - Jim Sandman, President
 - Ronald Flagg, Vice President for Legal Affairs
 - David Richardson, Treasurer/Comptroller
 - Jeffrey Schanz, Office of Inspector General
5. Further discussion of Compliance and Enforcement follow-up to OIG investigation and audit reports
 - Jeffrey Schanz, Inspector General
 - Lora Rath, Director of Compliance and Enforcement
6. Public comment
7. Consider and act on other business

CLOSED SESSION

8. Further discussion of office of Compliance and Enforcement follow-up to OIG open investigations
 - Jeffrey Schanz, Inspector General
 - Lora Rath, Director of Compliance and Enforcement
9. Consider and act on adjournment of meeting

Risk Assessment & Monitoring



FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

TO: Victor B. Maddox, Audit Committee Chairman

FROM: David L. Richardson, Treasurer/Comptroller *dlr*

DATE: July 10, 2013

SUBJECT: LSC Risk Management

The attached matrix reflects LSC management's update of the risk matrix listing the principal risks facing the Corporation, the strategies LSC employs to address those risks, and the people principally tasked to oversee and carry out those strategies. The matrix reflects changes made in light of the discussion during the Audit Committee's meeting on July 2, 2013. Among other changes, we have added a column identifying the specific Board committee we propose should receive management reports in each risk area. We have continued to highlight in red those risks that we deem most important and that we recommend be the focus of upcoming reports to the appropriate Board committees. We have consulted with the Inspector General in revising the matrix and will continue to work with OIG on the risk management issues reflected in the matrix.

RISK TO LSC RESOURCES – PEOPLE							
Risks			Strategies	Who is responsible?		Date of last review	Date of next review
	Probability	Severity		Management	Board		
Governance and Board Leadership -- Potential for problems	L	H	<ul style="list-style-type: none"> • Good information flow from management (including legal, financial, programmatic information) and from the OIG and outside auditors • Training of board • Orientation of new board • Evaluations/self-assessments • Sufficient staff support • Staying abreast of best board governance practices • Staying abreast of stakeholder and client concerns • Periodic review of governing documents to assure compliance and relevancy 		Board, Chairman, Gov. & Performance Review Com.		
Leadership Transitions							
-- President	H	M	<ul style="list-style-type: none"> • Presidential transition plan 	President			
-- Board	H	M	<ul style="list-style-type: none"> • Board transition plan • Board orientation documents 		Chairman, Gov. & Performance Review Com.		
-- Other senior leadership changes	M	M	<ul style="list-style-type: none"> • Transition plan 	President			

RISK TO LSC RESOURCES – PEOPLE							
Risks			Strategies	Who is responsible?		Date of last review	Date of next review
	Probability	Severity		Management	Board		
Management/IG Relations -- Potential for problems	M	H	<ul style="list-style-type: none"> • Communicate, coordinate, cooperate • Regular meetings 	President	Audit Com.		
LSC Management Leadership -- Preventing leadership problems	L	H	<ul style="list-style-type: none"> • Cohesive, effective management team • Emphasis on high standards • Regular communications with board, staff, grantees, public, OIG • Regular performance evaluations 	President	Gov. & Performance Review Com		
Conflicts of Interest/Ethics Violations	L	M	<ul style="list-style-type: none"> • Training on ethics code • Reminders, emphasis on ethics 	Ethics Officer	Audit Com.		

RISK TO LSC RESOURCES – FUNDING							
Risks			Strategies	Who is responsible?		Date of last review	Date of next review
	Probability	Severity		Management	Board		
Adequacy of Basic Field Funding -- Insufficient funding to accomplish LSC’s mission of providing equal access to justice	H	H	<ul style="list-style-type: none"> Public education Strengthen congressional relationships Develop stronger data to support funding requests, including data on outcomes and economic benefits of legal aid 	Government Relations/ Public Affairs (GRPA) Director	Finance Com.		
Adequacy of MGO Funding -- Insufficient Management and Grants Oversight funding	H	H	<ul style="list-style-type: none"> Strengthen congressional relationships Emphasize quantifying return on investment from oversight funding Emphasize grants oversight function 	GRPA Director	Finance Com.		
			<ul style="list-style-type: none"> Continue to assess MGO expenses to reduce any unnecessary duplication and inefficiencies 	Vice President for Grants Management (VPGM)			

RISK TO LSC RESOURCES –ASSETS							
Risks			Strategies	Who is responsible?		Date of last review	Date of next review
	Probability	Severity		Management	Board		
Internal Fraud	L	H	<ul style="list-style-type: none"> • Effective internal controls • IG oversight • Annual corporate audit 	Treasurer	Audit Com.		
			<ul style="list-style-type: none"> • Staff training on ethics 	Ethics Officer			
Internal Financial Controls -- Failures at LSC	L	H	<ul style="list-style-type: none"> • Management accountability • Annual audit • Board oversight • Regular review/update of Accounting Manual 	Treasurer	Audit Com.		
Litigation -- Employment	M	M	<ul style="list-style-type: none"> • Regular training of managers • Clear-cut policies and uniform application 	Human Resources Director	Audit Com.		
			<ul style="list-style-type: none"> • Effective negotiation and use of releases 	Vice President of Legal Affairs (VPLA)			
Integrity of electronic data/information -- Potential for Problems -- Security of electronic data	L	H	<ul style="list-style-type: none"> • Effective system back-ups • Effective disaster recovery • Regular staff training • Maintain qualified IT staff • Effective document and system security • Maintain up-to-date technology 	Chief Information Officer (CIO)	Audit Com.		

RISK TO LSC RESOURCES –ASSETS							
Risks			Strategies	Who is responsible?		Date of last review	Date of next review
	Probability	Severity		Management	Board		
Accuracy of grantee data -- Potential for Problems	L	H	<ul style="list-style-type: none"> Reliability testing (electronic analysis) Clear guidance/training on grantee reporting Clarify and better report “Other Services” data provided by grantees Self inspections 	Office of Information Management (OIM) Director	Audit Com.		
			<ul style="list-style-type: none"> CSR/CMS program visits 	OCE Director			
			<ul style="list-style-type: none"> Technology assistance 	OPP Director			
LSC Records Management -- Potential for Problems	L	M	<ul style="list-style-type: none"> Update records management policy, including statement on the handling of confidential information Train staff in new policy Effective FOIA procedures Stay abreast of best practices Maintain effective computer back-ups Maintain effective security on electronic information access (continued on next page)	CIO VPLA	Audit Com.		

RISK TO LSC RESOURCES –ASSETS							
Risks			Strategies	Who is responsible?		Date of last review	Date of next review
	Probability	Severity		Management	Board		
			<ul style="list-style-type: none"> • Improve internal access to key records • improve public access to records • Ensure compliance with legal requirements 				
Preservation of LSC interest in grantee property -- Potential for loss	L	L	<ul style="list-style-type: none"> • Maintain up to date Property Acquisition Manual • Remind grantees of LSC policy • Pursue remedies as necessary 	VPLA	Audit Com.		
Natural Disasters or interruptions of normal operations	L	H	<ul style="list-style-type: none"> • Effective COOP plan 	Chief of Staff	Audit Com.		
	L	H	<ul style="list-style-type: none"> • Computer network back-up 	CIO			

RISK TO LSC RESOURCES – GRANTEES							
Risks			Strategies	Who is responsible?		Date of last review	Date of next review
	Probability	Severity		Management	Board		
Grantee Oversight by LSC & IPAs -- Preventing lapses	M	H	<ul style="list-style-type: none"> • Rigorous Compliance oversight • Improved IPA oversight (provide recommendations to OIG) • Maintain comprehensive procedures manuals • Well-defined workplans for program visits • Careful review of grantee reports to LSC • Communications between offices • Internal training • Regular communications with programs • Monitoring media reports 	VPGM	Ops & Regs. Com.		
Interpretations of regulations by LSC Staff -- Preventing inconsistencies	L	H	<ul style="list-style-type: none"> • Joint meetings and trainings • Joint work groups by topic • Feedback from grantees 	VPGM	Ops & Regs. Com.		

RISK TO LSC RESOURCES – GRANTEES							
Risks		Strategies		Who is responsible?		Date of last review	Date of next review
	Probability	Severity		Management	Board		
Grantee Operations			<ul style="list-style-type: none"> • Rigorous selection process for grantees • Enforcement of regulations • Grant assurances • Grant conditions • Advisories • Program letters • Oversight visits • LSC Resource Information • Training of grantee staff • Performance Criteria • Outreach to local boards • Local board education • Outreach to Access to Justice community in region • On-site assessment to encourage competition • Review/redefine services • Seek interim provider • Work with programs to improve compliance and make it less likely 	VPGM	Ops & Regs. Com.		
-- Major misuse of grant funds	M	H					
-- Failure of leadership	L	H					
-- Failure of internal controls	M	H					
-- Lack of board oversight	M	H					
-- Leadership transitions	H	M					
-- Restriction violations	M	H					
-- Poor records management	M	M					
-- Poor Quality legal services	L	M					
-- Need to replace program	L	H					

(continued on next page)

RISK TO LSC RESOURCES – GRANTEES							
Risks			Strategies	Who is responsible?		Date of last review	Date of next review
	Probability	Severity		Management	Board		
			that they will violate restrictions or otherwise require the imposition of sanctions				
			<ul style="list-style-type: none"> • Periodic review of regulations • OLA opinions 	VPLA			

Responsibilities for Risk Management

Board of Directors

- Sets strategic goals and objectives, adopts annual operating budget, and approves risk management plan.
- Reviews operational reports to monitor progress towards goals as defined in *Strategic Directions* and assure compliance with organizational requirements.
- Adopts and establishes policies and regulations.
- Reviews the organization's risk management plan (RMP).
- Maintains working relationship with members of Congress.
- Board Committees to review implementation of RMP.

President

- Has overall responsibility for the effective implementation of the RMP.
- Assigns staff to design and carry out risk management activities.
- Assigns staff to perform annual review of the risk management activities.
- Approves all grants for the Corporation.
- Executes major contracts for the organization.
- Keeps the Board apprised of emerging threats and opportunities facing the organization.
- Leads the Executive Team in periodic review and update of the risk management plan.
- Gives final approval to the plan.
- Maintains effective relationship with members of Congress and staff.

Vice President for Legal Affairs

- Serves as advisor to the Board of Directors in legal matters, consulting outside counsel on an as needed basis.
- Advises senior staff on contracts; reviews contracts on an as needed basis.
- Monitors implementation of risk management program.
- Recommends any necessary modifications.

Vice President for Grants Management

- Supervises oversight of grantee operations and compliance.

Treasurer/Comptroller

- Establishes, conducts, and maintains internal controls for financial transactions.
- Purchases D&O insurance.

Executive Team

- Oversees organization-wide effort to protect the vital assets of LSC
- Convenes periodically to review the Corporation's priority risks and corresponding risk management strategies.

Office Directors

- Review and recommend modifications to corporate risk management program.
- Supervise implementation of risk management strategies within their area of responsibility.

Audit Division Open & Closed Referrals

July 8, 2013 - Open Referrals

Auditee	Report Date	Referral Date	Recommendation/Finding	Status At Referral	OIG's Open / Closed Date	Amount Referred by OIG	OCE Action	Amount Questioned	Recipient Response Due/Rec'd	Amount To Be Recouped	Mgmt Decision Due/Issued	Appeal To President	President's Decision	Final Amount To Be Recouped	Memo to OFAS	Memo to OIG	Date QC Closed	
Legal Services of Northern Virginia, Inc.	09/30/11	10/6/2011	ED should ensure that acct. manual is updated to incorporate all essential policies & process as required by LSC's Accounting Guide	Grantee management comments are partially responsive. The OIG was unable to locate in the current draft accounting manual the grantee's policies and procedures governing tagging of capital acquisitions, taking of physical inventory and reconciling the results of the inventory to the property records and financial statements. Referred to LSC Mgt. on 10/06/11.	Open	N/A	OCE conducted an onsite review in October 2011 and has been working with LSNV to address the deficiencies noted by the OIG. (See below)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Legal Services of Northern Virginia, Inc.	09/30/11	10/6/2011	ED should ensure that subsidiary records of all capitalized equipment & property that were purchased or donated are updated to include the details required by LSNV's Acct. manual and the LSC Acct. Guide.	Grantee proposed actions only partially responsive. Referred to LSC Mgt 10/06/11.	Open	N/A	OCE conducted an onsite review in October 2011 and has been working with LSNV to address the deficiencies noted by the OIG. The subsidiary records were found to have been properly maintained during the October 2011 OCE review. However, a current property inventory is currently underway and this should remain open until adequately completed.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Legal Services of Northern Virginia, Inc.	09/30/11	10/6/2011	ED should ensure that inventory tabs or labels are attached to fixed assets for ease of locating and accounting.	Grantee proposed actions only partially responsive. Referred to LSC Mgt 10/06/11.	Open	N/A	OCE conducted an onsite review in October 2011 and has been working with LSNV to address the deficiencies noted by the OIG. LSNV is properly tagging all property that has been purchased or received since becoming an LSC recipient on January 1, 2010. Regarding property that has been fully depreciated, and in program possession for years, some selective tagging of core items still in use is being conducted as part of the RCA. As a full property inventory is currently being conducted, this item should remain open.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Auditee	Report Date	Referral Date	Recommendation/Finding	Status At Referral	OIG's Open / Closed Date	Amount Referred by OIG	OCE Action	Amount Questioned	Recipient Response Due/Rec'd	Amount To Be Recouped	Mgmt Decision Due/Issued	Appeal To President	President's Decision	Final Amount To Be Recouped	Memo to OFAS	Memo to OIG	Date QC Closed
Legal Services of Northern Virginia, Inc.	09/30/11	10/6/2011	ED should ensure a physical inventory of all fixed assets is conducted and reconciled to the property records.	Open. Grantee proposed actions only partially responsive. Referred to LSC Mgt 10/06/11.	Open	N/A	OCE conducted an onsite review in October 2011 and has been working with LSNV to address the deficiencies noted by the OIG. As a full property inventory is currently being conducted, this item should remain open.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Texas RioGrande Legal Aid, Inc.	06/12/12	6/12/12??	ED should ensure that a cost allocation is developed that accurately accounts for the expenditure of LSC funds for each migrant grant and that the LSC funds provided are expended for services applicable to the respective service area.	Grantee's comments are PARTIALLY RESPONSIVE. Recommendation forwarded to OCE for resolution.	Open		OCE conducted an onsite Focused Fiscal Review in October 2012 DR released on 4/20/13. Program requested an extension until 6/28/13 to respond. Response has been received and is being reviewed.	TBD									
Texas RioGrande Legal Aid, Inc.	06/12/12		ED should ensure that policies and procedures are followed by staff members, including ensuring that credit card purchases are supported by receipts and that travel reports are filed as required for all travel.	Grantee's comments are NOT RESPONSIVE. Recommendation forwarded to OCE for resolution.	Open			TBD									
Inland Counties Legal Services, Inc.	07/25/12	8/6/12 revised 11/15/12	ED should develop & implement short-term & long-term plans to address the staffing shortages. The plans should consider seeking advice & assistance from LSC to determine the best actions to take to address staff shortages. The plans should include alternative methods that directly increase the availability of legal services to those needing assistance within the grantee's legal service delivery area. Alternatives may include but are not limited to hiring contract attorneys, increasing PAI, aggressive recruiting, hiring temporary employees, and making structural changes to the salary scale.	Grantee agreed to develop a plan to address attorney recruitment & retention. Grantee strongly disagreed with the finding re year-end stipends.	Open	\$1,384,670 - this amount was reduced to \$1,367,480	Information obtained from both ICLS and OIG is being reviewed/researched. OCE recommendation to VP is pending final review and determination.	TBD									

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Legal Aid and Defender Association, Inc.	12/21/12	01/16/13	ED should ensure that the duties and responsibilities of the HR Generalist with respect to the personnel and payroll functions are adequately segregated so that she performs no incompatible duties.		Open	N/A	Info from OIG provided on 2/7/13. Letter sent from OCE on 4/5/13 directing LAD to respond to #1-6. Additional letter sent on 6/24/13 directing to provide additional info regarding # 3. As of 7/2/13, OCE FCS had determined that #1-6 had been adequately addressed.												
Legal Aid and Defender Association, Inc.	12/21/12	01/16/13	ED should formulate written policies and procedures detailing the payroll reconciliation process and ensure this process and related internal controls are communicated and understood by all relevant personnel.		Open	N/A	In a related matter, on 6/12/13, OCE sent a letter regarding scope limitation. LAD responded on 6/27/13. That response is being reviewed and LAD will be advised of the outcome. This information has been made part of OCE's risk assessment chart.												

Auditee	Report Date	Referral Date	Recommendation/Finding	Status At Referral	OIG's Open / Closed Date	Amount Referred by OIG	OCE Action	Amount Questioned	Recipient Response Due/Rec'd	Amount To Be Recouped	Mgmt Decision Due/Issued	Appeal To President	President's Decision	Final Amount To Be Recouped	Memo to OFAS	Memo to OIG	Date QC Closed	
Legal Aid and Defender Association, Inc.	12/21/12	01/16/13	ED should ensure payroll reconciliations are performed and documented on a monthly basis by personnel independent of the payroll processing and recording procedures and that management reviews the reconciliations in a timely manner.		Open	N/A	Info from OIG provided on 2/7/13. Letter sent from OCE on 4/5/13 directing LAD to respond to #1-6. Additional letter sent on 6/24/13 directing to provide additional info regarding # 3. As of 7/2/13, OCE FCS had determined that #1-6 had been adequately addressed. In a related matter, on 6/12/13, OCE sent a letter regarding scope limitation. LAD responded on 6/27/13. That response is being reviewed and LAD will be advised of the outcome. This information has been made part of OCE's risk assessment chart.											
Legal Aid and Defender Association, Inc.	12/21/12	01/16/13	ED should ensure accounting staff's access rights to the DMS are reasonably limited in terms of creation, modification, and deletion as to protect the integrity of pertinent accounting information.		Open	N/A	The grantee comments are not responsive to the OIG's recommendation. Referred to LSC management for resolution. The OIG considers this recommendation open until the OIG receives written notification from the grantee that all resolution actions have been completed.											

Auditee	Report Date	Referral Date	Recommendation/Finding	Status At Referral	OIG's Open / Closed Date	Amount Referred by OIG	OCE Action	Amount Questioned	Recipient Response Due/Rec'd	Amount To Be Recouped	Mgmt Decision Due/Issued	Appeal To President	President's Decision	Final Amount To Be Recouped	Memo to OFAS	Memo to OIG	Date QC Closed		
Legal Aid and Defender Association, Inc.	12/21/12	01/16/13	ED should ensure the DMS' Activity Log is enabled to track and monitor all activities performed in DMS as to identify unauthorized, irregular, or improper activities.	The grantee comments are not responsive to the OIG's recommendation. Referred to LSC management for resolution. The OIG considers this recommendation open until the OIG receives written notification from the grantee that all resolution actions have been completed.	Open	N/A	Info from OIG provided on 2/7/13. Letter sent from OCE on 4/5/13 directing LAD to respond to #1-6. Additional letter sent on 6/24/13 directing to provide additional info regarding # 3. As of 7/2/13, OCE FCS had determined that #1-6 had been adequately												
Legal Aid and Defender Association, Inc.	12/21/12	01/16/13	ED should formulate detailed, written policies and procedures for allocating the CLG's administrative fee among LSC and other funding sources.	The grantee comments are not responsive to the OIG's recommendation. Referred to LSC management for resolution. The OIG considers this recommendation open until the OIG receives written notification from the grantee that all resolution actions have been completed.	Open	N/A	In a related matter, on 6/12/13, OCE sent a letter regarding scope limitation. LAD responded on 6/27/13. That response is being reviewed and LAD will be advised of the outcome. This information has been made part of OCE's risk assessment chart.												

Auditee	Report Date	Referral Date	Recommendation/Finding	Status At Referral	OIG's Open / Closed Date	Amount Referred by OIG	OCE Action	Amount Questioned	Recipient Response Due/Rec'd	Amount To Be Recouped	Mgmt Decision Due/Issued	Appeal To President	President's Decision	Final Amount To Be Recouped	Memo to OFAS	Memo to OIG	Date QC Closed	
Lone Star Legal Aid	01/15/13	01/24/13	ED should ensure that the payroll process is properly supervised and that detailed reviews of payroll are conducted prior to submission to ADP for processing after the payroll and supporting schedules are returned or made available for online review.	Grantee's comments are PARTIALLY RESPONSIVE. Grantee management did not address how proper supervision and oversight of the payroll process would occur or how detailed reviews of the payroll would be conducted prior to submission to ADP for processing. Recommendation forwarded to OCE for resolution.	Open	N/A	OCE will handle requesting additional details as part of any 1630 Notice or other interaction with program to be determined after OCE recommendation to VP (see below)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Lone Star Legal Aid	1/15/2013 Amount modified by memo dated 2/22/13 - original total of \$45,762 changed to \$18,482	01/24/13	ED should ensure that all unused IT equipment is securely stored at all times to avoid possible theft.	Grantee's comments are responsive. Questioned Costs totaling \$665 referred to OCE regarding three missing IT items	Closed	\$665	Requested additional information from OIG on 2/27/13. Last documents received 3/26/13. Recommendation to VP is pending OCE final review and submission.	TBD										
Lone Star Legal Aid	1/15/2013 Amount modified by memo dated 2/22/13 - original total of \$45,762 changed to \$18,482	01/24/13	ED should ensure that required LSC approvals are obtained before making purchases.	Grantee comments are responsive and recommendation is closed but \$13,178 referred as Questioned Costs due to failure to obtain LSC's prior approval. (original amount was \$40,458 reduced pursuant to OLA opinion regarding services contracts).	Open	\$13,178	Requested additional information from OIG on 2/27/13. Last documents received 3/26/13. Recommendation to VP is pending OCE final review and submission.	TBD										

Auditee	Report Date	Referral Date	Recommendation/Finding	Status At Referral	OIG's Open / Closed Date	Amount Referred by OIG	OCE Action	Amount Questioned	Recipient Response Due/Rec'd	Amount To Be Recouped	Mgmt Decision Due/Issued	Appeal To President	President's Decision	Final Amount To Be Recouped	Memo to OFAS	Memo to OIG	Date QC Closed
Lone Star Legal Aid	1/15/2013 Amount modified by memo dated 2/22/13 - original total of \$45,762 changed to \$18,482	01/24/13	ED should enforce policies and procedures that require disbursements to be accompanied by adequate supporting documentation before payment.	Grantee comments are responsive and recommendations are closed but \$4,639 referred as Questioned Costs as unnecessary or unsupported disbursements.	Closed	\$4,639	Requested additional information from OIG on 2/27/13. Last documents received 3/26/13. Recommendation to VP is pending OCE final review and submission.	TBD									
Idaho Legal Aid Services, Inc.	4/1/13	4/1/13	No recommendations	Questioned costs referred to OCE	Closed	\$215,051 in personnel and unexpended funds	Recommendation to VP is pending OCE final review and submission.	TBD									

July 8, 2013 - Closed Referrals

Auditee	Report Date	Referral Date	Recommendation/Finding	Status At Referral	OIG's Open / Closed Date	Amount Referred by OIG	OCE Action	Amount Questioned	Recipient Response Due/Rec'd	Amount To Be Recouped	Mgmt Decision Due/Issued	Appeal To President	President's Decision	Final Amount To Be Recouped	Memo to OFAS	Memo to OIG	Date Closed
Appalachian Research and Defense Fund of Kentucky	08/22/11		BOD should obtain services of a skilled individual(s), not associated with the grantee, to review the IC design, accounting process & accounting dept. organizational structure; and should implement, in accordance with LSC requirements, changes to ensure that the grantee's resources are properly controlled, accounted, for & safeguarded. The individual(s) should assess the personnel needs of the dept. and provide any necessary training to the employees in the acct. dept. or recruit qualified individuals to perform such duties.	One overall recommendation referred for follow-up as well as for consideration of 1630 proceedings.	Closed	\$257,057	Notice of Questioned Costs Issued on 12/8/11	\$218,339.95	Due 1/9/12- requested an extension until 1/17/12	\$20,036.95	Issued 2/22/2012	None	N/A	\$20,036.95	04/03/12	03/30/12	02/22/12
Legal Services of Northern Virginia, Inc.	09/30/11	10/6/2011	ED should ensure that the info contained in the PC Inventory Report is accurate & reconciled with the subsidiary records; and that written policies & procedures are documented describing the processes to be used to ensure that that subsidiary records are accurately updated.	Grantee proposed actions only partially responsive. Referred to LSC Mgt 10/06/11.	Closed	N/A	OCE conducted an onsite review in October 2011 and has been working with LSNV to address the deficiencies noted by the OIG. The property records provided during the October 2011 OCE review included property balances which agreed with the property balance in the general ledger and in the financial statements. Based on information provided by LSNV, OCE recommended that this be closed on 3/29/13.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	3/29/2013	N/A

July 8, 2013 - Closed Referrals

Auditee	Report Date	Referral Date	Recommendation/Finding	Status At Referral	OIG's Open / Closed Date	Amount Referred by OIG	OCE Action	Amount Questioned	Recipient Response Due/Rec'd	Amount To Be Recouped	Mgmt Decision Due/Issued	Appeal To President	President's Decision	Final Amount To Be Recouped	Memo to OFAS	Memo to OIG	Date Closed
Legal Services of Northern Virginia, Inc.	09/30/11	10/6/2011	ED should ensure that written policies and procedures are developed and implemented requiring that subgrants be monitored in accordance with LSC regulations and subgrant agreements.	Grantee proposed actions are not responsive. Referred to LSC Mgt 10/06/11.	Closed	N/A	OCE conducted an onsite review in October 2011 and subgrant FUR in 2012 to reassess. SGCs have been attached to the 2013 subgrant to assist the recipient in coming into full compliance.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	03/30/12	N/A
Legal Aid of North Carolina	09/30/11	??	ED should formulate policies & procedures to prohibit the use of LSC funds for non-business functions or purposes, including but not limited to the purchase of flowers, donations in lieu of flowers, holiday parties, late fees or finance charges. These policies should be briefed to all grantee staff, emphasizing that LSC's funds are to be used only for business purposes.	Grantee's comments are responsive. Rec will remain open until grantee provides written notification that all actions have been completed. By letter dated 3/8/12, recipient provided new policy/procedure to address these issues.	Closed	\$6,937	1630 Notice of Questioned Costs Issued on 1/12/12	\$6,937	Due 2/11/12 Received on 1/25/12	\$2,985	Issued 2/24/12	None	N/A	\$2,985	03/14/12	03/13/12	02/22/12
Legal Aid of North Carolina	09/30/11	??	ED should ensure that in addition to documenting the cost allocation, year-end comparisons for individual grants are conducted to determine (a) whether actual charges have exceeded funded charges, and (b) whether those unfunded charges are allowable as charges to LSC.	Grantee disagreed with Rec. 13 & is not responsive. Forwarded to OCE for resolution. By letter dated 3/8/12, recipient provided new policy/procedure to address these issues.	Closed	\$569.00	1630 Notice of Questioned Costs Issued on 1/12/12	\$569	Due 2/11/12 Received on 1/25/12	\$0	Issued 2/24/12	None	N/A	\$0	03/14/12	03/13/12	2/22/2012

July 8, 2013 - Closed Referrals

Auditee	Report Date	Referral Date	Recommendation/Finding	Status At Referral	OIG's Open / Closed Date	Amount Referred by OIG	OCE Action	Amount Questioned	Recipient Response Due/Rec'd	Amount To Be Recouped	Mgmt Decision Due/Issued	Appeal To President	President's Decision	Final Amount To Be Recouped	Memo to OFAS	Memo to OIG	Date Closed
North Mississippi Rural Legal Services, Inc.	09/30/11	N/A	ED should establish and follow acquisition policies and procedures that ensure required LSC approvals are obtained before making purchases.	Management comments responsive but Questioned costs referred to OCE on 3/30/12.	Closed	\$17,351	On 4/24/12 OCE submitted a request to OLA for an opinion regarding whether the regulation and its supplementary information or the PAMM is controlling authority, as the two appear to contradict each other. OLA opinion issued 1/17/13 determined that services are not aggregated in cost of personal property. QC moot.	\$0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	01/23/13	N/A
Central Arkansas Legal Services (TIG)	02/27/12		Report had no Recommendations, but did have questioned costs.	Questioned costs referred to OCE	Closed	\$82,300	1630 Notice of Questioned Costs issued on 12/3/12	\$82,300	1/2/13/Rec'd 1/2/13	\$0	3/3/13	None needed	XXX	\$0	N/A	03/15/13	03/15/13
Southeastern Louisiana Legal Services (TIG)	07/10/12	07/10/12	Report had no Recommendations, but did have a questioned costs.	Questioned costs referred to OCE	Closed	\$55,741	1630 Notice of Questioned Costs issued on 12/5/12	\$36,747	1/4/12 / Rec'd 1/3/12	\$4,275	3/4/2013 Issued on 3/1/13	Due on or before 4/1/13 - none received	N/A	\$4,275	04/18/13	04/18/13	04/18/13
Legal Services of Southern Missouri (TIG)	07/20/12	07/20/12	Report had no Recommendations, but did have a questioned costs.	Questioned costs referred to OCE	Closed	\$3,659	1630 Notice of Questioned Costs issued on 10/25/12	\$3,659	11/24/12 Program indicated by email on 11/29/12 that no appeal would be made.	\$3,659	Issued on 12/19/12	Due on or before 1/18/13 - none received	N/A	\$3,659	02/08/13	02/11/13	02/11/13

403(b) Plan Performance Memorandum



OFFICE OF HUMAN RESOURCES

MEMORANDUM

TO: The Audit Committee

FROM: Traci L. Higgins

DATE: July 3, 2013

SUBJECT: LSC 403(b) Thrift Plan – 2nd Quarter 2013 Update; 403(b) Plan Audit Update

403 (b) Plan Performance

Through July 1, 2013, LSC's funds fared June's turbulent market reasonably well. Despite recent volatility, the YTD returns of twelve of LSC's twenty five funds still remain above the YTD returns registered at the end of the first quarter. Six funds have registered declines of less than 1% from last quarter's performance, with the returns of an additional three funds falling between 1.5% - 3%. Consistent with the market-wide weak performance of bond funds when interest rates rise, three of LSC's four weakest performers were bond funds. The Oppenheimer Developing Markets fund also performed poorly (-4.37%), consistent with the performance of global markets. Overall, the long term outlook for LSC's funds remains positive with solid one-, three- and five-year returns.

403 (b) Plan Distributions

The only significant distribution activity was a \$278,800 rollover for an employee who left LSC.

403(b) Plan Audit Update: The 403(b) plan audit is currently under way for plan year 2012. LSC has provided all requested documentation to plan auditor Dixon Hughes Goodman LLP (DHG). DHG has conducted all eligibility testing to ensure compliance with the plan document and has advised LSC that it passed all tests. LSC has no outstanding requests for information. The auditor is preparing a draft document for his manager's review.

AUL automatically files an extension for LSC's 5500 Annual Tax Return/Report to allow adequate time for the completion of the audit. With the extension, the deadline is October 15, 2013. The audit report is filed with the 5500. AUL has completed the 5500 and sent a draft copy to the auditor for review.

Please let me know if you have any questions or require additional information.

IV. Institutional Advancement Committee

INSTITUTIONAL ADVANCEMENT COMMITTEE

July 21, 2013

Agenda

OPEN SESSION

1. Approval of agenda
2. Approval of minutes of the Committee's open session meeting of April 9, 2013
3. Approval of minutes of the Committee's open session meeting of April 15, 2013
4. Approval of minutes of the Committee's open session meeting of April 23, 2013
5. Approval of minutes of the Committee's open session meeting of May 14, 2013
6. Approval of minutes of the Committee's open session meeting of May 28, 2013
7. Approval of minutes of the Committee's open session meeting of June 11, 2013
8. Discussion of LSC's 40th anniversary calendar
9. Consider and act on the Minnesota Charitable Organization Initial Registration and Annual Report Form
 - **Resolution 2013-XXX** Approving the Minnesota Charitable Organization Initial Registration and Annual Report Form
10. Consider and act on the North Dakota Charitable Organization Registration Statement
 - **Resolution 2013-XXX** Approving the North Dakota Charitable Organization Registration Statement
11. Discussion of LSC's development plan
12. Public comment
13. Consider and act on other business

CLOSED SESSION

14. Approval of minutes of the Committee's closed session meeting of March 26, 2013
15. Approval of minutes of the Committee's closed session meeting of April 9, 2013
16. Approval of minutes of the Committee's closed session meeting of April 15, 2013
17. Approval of minutes of the Committee's closed session meeting of May 14, 2013
18. Discussion of prospective funders for LSC's 40th anniversary celebration and
development activities
19. Discussion of prospective honorees for LSC's 40th anniversary celebration
20. Discussion of prospective members for an LSC 40th anniversary honorary committee
21. Consider and act on adjournment of meeting

Minutes of April 9, 2013 Meeting

**Legal Services Corporation
Telephonic Meeting of the Institutional Advancement Committee
Open Session**

Tuesday, April 9, 2013

Chairman John G. Levi convened an open session telephonic meeting of the Legal Services Corporation's ("LSC") Institutional Advancement Committee ("the Committee") at 4:05 p.m. on Tuesday, April 9, 2013. The meeting was held in the John N. Erlenborn, Conference Room, Legal Services Corporation, 3333 K Street, N.W. Washington, D.C. 20007.

The following Committee members were present:

John G. Levi, Chairman
Charles N.W. Keckler
Robert J. Grey Jr.
Frank B. Strickland (Non-Director Member)

Other Board Members Present:

Julie A. Reiskin

Also attending were:

James J. Sandman	President
Jeffrey Schanz	Inspector General
Rebecca Fertig	Special Assistant to the President
Atitaya Rok	Staff Attorney, Office of Legal Affairs
Carol Bergman	Director, Office of Government Relations and Public Affairs (GRPA)
Carl Rauscher	Director of Media Relations, GRPA
Don Saunders	National Legal Aid and Defenders Association (NLADA)

The following summarizes actions taken by, and presentations made to, the Committee:

Chairman Levi called the meeting to order.

MOTION

Mr. Grey moved to approve the agenda. Mr. Strickland seconded the motion.

VOTE

The motion passed by voice vote.

The Committee discussed LSC's fundraising objectives.

Chairman Levi solicited public comments. Mr. Saunders asked that LSC communicate its 40th anniversary plans and goals to the public. There was no other business considered.

The Committee continued its meeting in closed session at 4:23 p.m.

Minutes of April 15, 2013 Meeting

**Legal Services Corporation
Meeting of the Institutional Advancement Committee
Open Session**

Monday, April 15, 2013

Chairman John G. Levi convened an open session meeting of the Legal Services Corporation's ("LSC") Institutional Advancement Committee ("the Committee") at 9:07 a.m. on Monday, April 15, 2013. The meeting was held at the F. William McCalpin Conference Center, Legal Services Corporation, 3333 K Street, N.W. Washington, D.C. 20007.

The following Committee members were present:

John G. Levi, Chairman
Martha L. Minow
Robert J. Grey Jr.
Charles N.W. Keckler
Father Pius Pietrzyk
Herbert S. Garten (Non-Director Member)
Frank B. Strickland (Non-Director Member)

Other Board members present:

Sharon L. Browne (by telephone)
Victor B. Maddox
Julie Reiskin
Gloria Valencia-Weber

Also attending were:

James J. Sandman	President
Patricia Stinneford	Executive Assistant to the President
Rebecca Fertig	Special Assistant to the President
Lynn Jennings	Vice President for Grants Management
Atitaya Rok	Staff Attorney, Office of Legal Affairs
Katherine Ward	Executive Assistant, Office of Legal Affairs
David L. Richardson	Comptroller and Treasurer
Jeffrey E. Schanz	Inspector General
Carol Bergman	Director, Office of Government Relations and Public Affairs (GRPA)
Carl Rauscher	Director of Media Relations, GRPA
Lora M. Rath	Deputy Director, Office of Compliance and Enforcement (OCE)
Traci Higgins	Director, Office of Human Resources

Peter Campbell	Chief Information Officer, Office of Information Management
LaVon Smith	Office of Information Technology
Eric Jones	Office of Information Management
Wendy Rhein	Incoming Development Officer
Chuck Greenfield	National Legal Aid and Defender Association (NLADA)
Don Saunders	NLADA
Terry Brooks	American Bar Association
Dominique Martin	Law99.com

The following summarizes actions taken by, and presentations made to, the Committee:

Chairman Levi noted the presence of a quorum and called the meeting to order.

MOTION

Dean Minow moved to approve the agenda. Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Chairman Levi moved to approve the minutes of the Committee's meeting of January 26, 2013. Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

Chairman Levi introduced LSC's incoming Chief Development Officer, Ms. Rhein.

Chairman Levi led the discussion of plans for LSC's 40th anniversary celebration, which is intended to be a year-long celebration with several events for both fundraising and increasing public awareness of legal services. The committee also discussed LSC's fundraising objectives.

MOTION

Mr. Keckler moved to recommend to the Board that it adopt LSC's fundraising objectives. Father Pius seconded the motion.

VOTE

The motion passed by a majority voice vote.

Chairman Levi invited public comments. Mr. Brooks offered for LSC to collaborate with the American Bar Association in the course of its 40th anniversary celebration planning. There was no other business to consider.

The meeting of the Committee continued in closed session at 9:34 a.m.

Minutes of April 23, 2013 Meeting

**Legal Services Corporation
Telephonic Meeting of the Institutional Advancement Committee
Open Session**

Tuesday, April 23, 2013

Chairman John G. Levi convened an open session telephonic meeting of the Legal Services Corporation's ("LSC") Institutional Advancement Committee ("the Committee") at 4:00 p.m. on Tuesday, April 23, 2013. The meeting was held at Legal Services Corporation, 3333 K Street, N.W. Washington, D.C. 20007.

The following Committee members were present:

John G. Levi, Chairman

Robert J. Grey, Jr.

Herbert S. Garten (Non-Director Member)

Frank B. Strickland (Non-Director Member)

Also attending were:

James J. Sandman

President

Rebecca Fertig

Special Assistant to the President

Atitaya Rok

Staff Attorney, Office of Legal Affairs

Jeffrey E. Schanz

Inspector General

Carl Rauscher

Director of Media Relations, Office of Government
Relations and Public Affairs

Wendy Rhein

Incoming Chief Development Officer

The following summarizes actions taken by, and presentations made to, the Committee:

Chairman Levi noted the presence of a quorum and called the meeting to order.

MOTION

Mr. Grey moved to approve the agenda. Mr. Strickland seconded the motion.

VOTE

The motion passed by voice vote.

Chairman Levi led the discussion on the Board-approved fundraising objectives and the need for fundraising policies. Ms. Rhein offered some preliminary thoughts on each matter, as well as on her initial plans for LSC's development operation.

Chairman Levi invited public comment and received none. There was no other business to consider.

The Committee cancelled the closed session portion of the meeting.

MOTION

Mr. Garten moved to adjourn the meeting. Mr. Strickland seconded the motion.

VOTE

The motion passed by voice vote.

The meeting of the Committee adjourned at 4:28 p.m.

Minutes of May 14, 2013 Meeting

**Legal Services Corporation
Telephonic Meeting of the Institutional Advancement Committee
Open Session**

Tuesday, May 14, 2013

Chairman John G. Levi convened an open session meeting of the Legal Services Corporation's ("LSC") Institutional Advancement Committee ("the Committee") at 4:03 p.m. on Tuesday, May 14, 2013. The meeting was held in the John N. Erlenborn Conference Room, Legal Services Corporation, 3333 K Street, N.W. Washington, D.C. 20007.

The following Committee members were present:

John G. Levi, Chairman
Charles N.W. Keckler
Father Pius Pietrzyk
Herbert S. Garten (Non-Director Member)
Frank B. Strickland (Non-Director Member)

Also attending were:

James J. Sandman	President
Rebecca Fertig	Special Assistant to the President
Atitaya Rok	Staff Attorney, Office of Legal Affairs
Carl Rauscher	Director of Media Relations, GRPA
Wendy Rhein	Chief Development Officer
Terry Brooks	American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID)

The following summarizes actions taken by, and presentations made to, the Committee:

Chairman Levi called the meeting to order.

MOTION

Father Pius moved to approve the agenda. Mr. Strickland seconded the motion.

VOTE

The motion passed by voice vote.

Chairman Levi officially welcomed Ms. Rhein, LSC's first Chief Development Officer. The Committee discussed the timeline for the 40th anniversary celebration planning. Ms. Rhein stated that LSC would need to finish the fundraising groundwork, which includes completing the charitable solicitation registrations and adopting fundraising policies, before any 40th anniversary fundraising and development operation can begin.

Chairman Levi invited public comments and received none. There was no other business considered.

The Committee continued its meeting in closed session at 4:15 p.m.

Minutes of May 28, 2013 Meeting

**Legal Services Corporation
Telephonic Meeting of the Institutional Advancement Committee
Open Session**

Tuesday, May 28, 2013

Chairman John G. Levi convened an open session telephonic meeting of the Legal Services Corporation's ("LSC") Institutional Advancement Committee ("the Committee") at 4:02 p.m. on Tuesday, May 28, 2013. The meeting was held in the John N. Erlenborn Conference Room, Legal Services Corporation, 3333 K Street, N.W. Washington, D.C. 20007.

The following Committee members were present:

John G. Levi, Chairman
Charles N.W. Keckler
Father Pius Pietrzyk
Herbert S. Garten (Non-Director Member)
Thomas Smegal (Non-Director Member)

Also attending were:

James J. Sandman	President
Rebecca Fertig	Special Assistant to the President
Wendy Rhein	Chief Development Officer
Atitaya Rok	Staff Attorney, Office of Legal Affairs
Carol A. Bergman	Director, Office of Government Relations and Public Affairs (GRPA)
Carl Rauscher	Director of Media Relations, (GRPA)

The following summarizes actions taken by, and presentations made to, the Committee:

Chairman Levi called the meeting to order.

MOTION

Mr. Keckler moved to approve the agenda. Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

Ms. Rhein provided an overview of several fundraising policies for the Committee's consideration at the next meeting.

Chairman Levi invited public comment and received none. In other business, Chairman Levi suggested creating a calendar for the 40th anniversary year.

MOTION

Mr. Keckler moved to adjourn the meeting. Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

The meeting of the Committee adjourned at 4:11 p.m.

Minutes of June 11, 2013 Meeting

**Legal Services Corporation
Telephonic Meeting of the Institutional Advancement Committee
Open Session**

Tuesday, June 11, 2013

Chairman John G. Levi convened an open session telephonic meeting of the Legal Services Corporation's ("LSC") Institutional Advancement Committee ("the Committee") at 4:06 p.m. on Tuesday, June 11, 2013. The meeting was held at Legal Services Corporation, 3333 K Street, N.W. Washington, D.C. 20007.

The following Committee members were present:

John G. Levi, Chairman
Charles N.W. Keckler
Father Pius Pietrzyk
Herbert S. Garten (Non-Director Member)

Other Board Members present:

Julie A. Reiskin

Also attending were:

James J. Sandman	President
Wendy Rhein	Chief Development Officer
Ronald Flagg	Vice President for Legal Affairs, General Counsel, and Corporate Secretary
Atitaya Rok	Staff Attorney, Office of Legal Affairs
Carol A. Bergman	Director, Office of Government Relations and Public Affairs (GRPA)
Jeffrey Schanz	Inspector General
Don Saunders	National Legal Aid and Defenders Association (NLADA)
Terry Brooks	American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID)

The following summarizes actions taken by, and presentations made to, the Committee:

Chairman Levi noted the presence of a quorum and called the meeting to order.

MOTION

Mr. Garten moved to approve the agenda. Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

Ms. Rhein presented several draft fundraising policies – Donor Bill of Rights, Memorial/Honorarium Gifts, Board Giving Policy, and the revised Contributions Protocol. The Committee members discussed the policies and suggested revisions.

Chairman Levi invited public comment. Mr. Saunders expressed encouragement and questions regarding LSC’s development efforts. There was no other business to consider.

MOTION

Father Pius moved to adjourn the meeting. Mr. Keckler seconded the motion.

VOTE

The motion passed by voice vote.

The Committee did not have time to convene the closed session portion of the meeting. The meeting of the Committee adjourned at 5:10 p.m.

LSC 40th Anniversary Calendar

LSC 40TH ANNIVERSARY CALENDAR

Ä Feb 2014		~ March 2014 ~					Apr 2014 °
Sun	Mon	Tue	Wed	Thu	Fri	Sat	
						1	
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17 St. Patrick's Day	18	19	20	21	22	
23	24	25	26	27	28	29	
30	31	Notes:					

**GOAL: Launch 40th anniversary webpage

Ä Mar 2014	~ April 2014 ~						May 2014 °
Sun	Mon	Tue	Wed	Thu	Fri	Sat	
		1	2	3	4 TENTATIVE 40 TH ANNIVERSARY LAUNCH	5 TENTATIVE 40 TH ANNIVERSARY LAUNCH	
6 LSC Board of Directors Meeting (Washington D.C.)	7 LSC Board of Directors Meeting (Washington D.C.)	8 LSC Board of Directors Meeting (Washington D.C.) ABA Day in Washington DC	9 ABA Day in Washington DC	10 ABA Day in Washington DC	11	12	
13	14 Passover Begins Congress Out	15 Tax Day (Taxes Due) Passover Begins Congress Out	16 Congress Out	17 Congress Out	18 Good Friday Congress Out	19	
20 Easter	21 Congress Out	22 Earth Day Passover Ends Congress Out	23 Administrative Professionals Congress Out	24 Congress Out	25 Arbor Day Congress Out	26	
27	28	29	30 NLADA Equal Justice Conference (Portland, OR)	Notes:			

Ä Apr 2014		~ May 2014 ~					Jun 2014 °
Sun	Mon	Tue	Wed	Thu	Fri	Sat	
				1 NLADA Equal Justice Conference (Portland, OR)	2 NLADA Equal Justice Conference (Portland, OR)	3 NLADA Equal Justice Conference (Portland, OR)	
4	5	6	7	8	9	10	
11 Mother's Day	12	13	14	15	16	17 Armed Forces Day	
18	19	20	21	22	23	24	
25	26 Memorial Day Congress Out	27 Congress Out	28 Congress Out	29 Congress Out	30 Congress Out	31	

Ä May 2014		~ June 2014 ~					Jul 2014 °
Sun	Mon	Tue	Wed	Thu	Fri	Sat	
1	2	3	4	5	6	7	
8	9	10	11	12	13	14 Flag Day	
15 Father's Day	16	17	18	19	20	21	
22	23	24	25	26	27	28	
29	30 Congress Out	Notes:					

Jun 2014		~ July 2014 ~					Aug 2014 °
Sun	Mon	Tue	Wed	Thu	Fri	Sat	
		1 Congress Out	2 Congress Out	3 Congress Out	4 Independence Day Congress Out	5	
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	
20 LSC Board of Directors Meeting (Des Moines, IA)	21 LSC Board of Directors Meeting (Des Moines, IA)	22 LSC Board of Directors Meeting (Des Moines, IA)	23	24	25 Establishment of the LSC by Congress in 1974	26	
27	28	29	30	31	Notes:		

Jul 2014		~ August 2014 ~					Sep 2014 °
Sun	Mon	Tue	Wed	Thu	Fri	Sat	
					1 Congress Out	2	
3	4 Congress Out	5 Congress Out	6 Congress Out	7 ABA Annual Meeting (Boston, MA) Congress Out	8 ABA Annual Meeting (Boston, MA) Congress Out	9 ABA Annual Meeting (Boston, MA)	
10 ABA Annual Meeting (Boston, MA)	11 ABA Annual Meeting (Boston, MA) Congress Out	12 ABA Annual Meeting (Boston, MA) Congress Out	13 Congress Out	14 Congress Out	15 Congress Out	16	
17	18 Congress Out	19 Congress Out	20 Congress Out	21 Congress Out	22 Congress Out	23	
24	25 Congress Out	26 Congress Out	27 Congress Out	28 Congress Out	29 Congress Out	30	
31	Notes:						

Ä Aug 2014		~ September 2014 ~					Oct 2014 °
Sun	Mon	Tue	Wed	Thu	Fri	Sat	
	1 Labor Day Congress Out	2 Congress Out	3 Congress Out	4 Congress Out	5 Congress Out	6	
7	8	9 MM unavailable	10 MM unavailable	11	12	13	
14	15	16 POTENTIAL DC GALA	17 POTENTIAL DC GALA	18 POTENTIAL DC GALA	19	20	
21	22 Congress Out	23 Congress Out	24 Congress Out	25 Rosh Hashanah Congress Out	26 Rosh Hashanah Congress Out	27	
28	29	30	Notes:				

Ä Sep 2014		~ October 2014 ~					Nov 2014 °
Sun	Mon	Tue	Wed	Thu	Fri	Sat	
			1	2	3	4 Yom Kippur	
5 LSC Board of Directors Meeting (Albany, NY)	6 LSC Board of Directors Meeting (Albany, NY)	7 LSC Board of Directors Meeting (Albany, NY) Tentative Policy-Related Session with Grantees and Prospective Donors	8 LSC Board of Directors Meeting (Albany, NY) Tentative NYC event – staged Q&A interview; reception at NYU Law?	9 NYC 40 th anniversary event	10	11	
12	13 Columbus Day Congress Out	14 Congress Out	15 Congress Out	16 Congress Out	17 Congress Out	18	
19	20	21	22	23	24	25	
26	27	28	29	30	31 Halloween	Notes:	

Ä Oct 2014		~ November 2014 ~					Dec 2014 °
Sun	Mon	Tue	Wed	Thu	Fri	Sat	
						1	
2	3	4 Election Day	5	6	7	8	
9	10	11 Veterans' Day	12 NLADA Annual Conference (Arlington, VA)	13 NLADA Annual Conference (Arlington, VA)	14 NLADA Annual Conference (Arlington, VA)	15 NLADA Annual Conference (Arlington, VA)	
16	17	18	19	20	21	22	
23	24	25	26	27 Thanksgiving	28	29	
30	Notes:						

More Holiday Calendars from WinCalendar: 2013 Calendar with Holidays, 2014 Calendar with Holidays, Calendar with Holidays

Ä Nov 2014		~ December 2014 ~					Jan 2015 °
Sun	Mon	Tue	Wed	Thu	Fri	Sat	
	1	2	3	4	5	6	
7	8	9	10	11	12	13	
14	15	16	17 Chanukah Begins	18	19	20	
21	22	23	24	25 Christmas	26	27	
28	29	30	31	Notes:			

~ January 2015 ~						
Ä Dec 2014						Feb 2015 °
Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1 New Year's Day	2	3
4	5	6	7	8	9	10
11	12	13	14	15 Tentative TIG Conference	16 Tentative TIG Conference	17 Tentative TIG Conference
18	19 Martin Luther King	20	21	22	23	24
25	26	27	28	29	30	31

**LSC BOARD MEETING GENERALLY HELD LATE JANUARY.

~ February 2015 ~						
Ä Jan 2015						Mar 2015 °
Sun	Mon	Tue	Wed	Thu	Fri	Sat
1 Super Bowl	2 Groundhog Day	3	4 ABA Mid Year meeting (Houston, TX)	5 ABA Mid Year meeting (Houston, TX)	6 ABA Mid Year meeting (Houston, TX)	7 ABA Mid Year meeting (Houston, TX)
8 ABA Mid Year meeting (Houston, TX)	9 ABA Mid Year meeting (Houston, TX)	10 ABA Mid Year meeting (Houston, TX)	11	12	13	14 Valentine's Day
15	16 Presidents' Day	17	18	19	20	21
22	23	24	25	26	27	28

Ä Feb 2015		~ March 2015 ~					Apr 2015 °
Sun	Mon	Tue	Wed	Thu	Fri	Sat	
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17 St. Patrick's Day	18	19	20	21	
22	23	24	25	26	27	28	
29	30	31	Notes:				

Ä Mar 2015		~ April 2015 ~					May 2015 °
Sun	Mon	Tue	Wed	Thu	Fri	Sat	
			1	2	3 Good Friday	4 Passover Begins	
5 Easter	6	7	8	9	10	11 Passover Ends	
12	13	14	15 Tax Day (Taxes Due)	16	17	18	
19	20	21	22 Earth Day / Administrative Professionals	23	24 Arbor Day	25	
26	27	28	29	30	Notes:		

**LSC BOARD MEETING AND ABA DAY GENERALLY HELD MID-APRIL.

**GOAL: 40th anniversary wrap-up large-scale event.

Ä Apr 2015		~ May 2015 ~					Jun 2015 °	
Sun	Mon	Tue	Wed	Thu	Fri	Sat		
					1	2		
3	4	5	6	7 NLADA Equal Justice (Austin, TX)	8 NLADA Equal Justice (Austin, TX)	9 NLADA Equal Justice (Austin, TX)		
10 Mother's Day	11	12	13	14	15	16 Armed Forces Day		
17	18	19	20	21	22	23		
24	25 Memorial Day	26	27	28	29	30		
31	Notes:							

**ABA'S EQUAL JUSTICE CONFERENCE GENERALLY HELD IN EARLY MAY

Minnesota Registration

STATE OF MINNESOTA
CHARITABLE ORGANIZATION INITIAL REGISTRATION & ANNUAL REPORT FORM

ATTORNEY GENERAL LORI SWANSON
SUITE 1200, BREMER TOWER
445 MINNESOTA STREET
ST. PAUL, MN 55101-2130
(651) 757-1311
(651) 296-1410 (TTY)
www.ag.state.mn.us

Annual Reporting Initial Registration

FEDERAL EIN NUMBER: 52-1039060

FOR YEAR ENDING: 9/30/2012

SECTION A: REQUIRED INFORMATION FOR INITIAL REGISTRATION & ANNUAL REPORTING

1. *Legal Name of Organization:* Legal Services Corporation

If annual reporting, is this a new name since the organization's last filing? Yes No

If so, please state former name: _____

2. List all names under which the organization solicits contributions:

3. *Mailing Address of Organization (required)*

3333 K St. NW, 3rd Floor
Washington, DC 20007

Physical Address of Organization (required)

3333 K St. NW, 3rd Floor
Washington, DC 20007

4. *Contact Person* Wendy Rhein

Tel. No. (202) 295-1500

E-mail rheinw@lsc.gov

Fax No. (202) 337-6386

5. Does the organization use the services of a professional fund-raiser (outside solicitor or consultant)?
 Yes No

If so, provide name and address of any outside professional fund-raiser employed by the organization and state the total amount of compensation each outside fund-raiser received from the filing organization during the year. **Attach schedule if more than one.**

Name _____

Address _____

City _____ State _____ Zip _____ Compensation _____

6. a) Does this professional fund-raiser solicit or consult in Minnesota? Yes No

b) Is this professional fund-raiser registered to solicit or consult in Minnesota? Yes No

7. Month and day accounting year ends: 9/30

8. Has the organization included the filing fee, late fee (if any) and all attachments required by the instructions? Yes No

Office Use Only: ARF \$25 \$50 N(e-Postcard) 990 EZ PF FES SIG BD SAL Audit

9. This Section A(9) must be completed by organizations filing a 990-N (e-Postcard) or organizations whose filing does not contain the information requested below. This includes organizations that: 1) do not file an IRS Form 990, 2) file an IRS Form 990-EZ or 990-PF, or 3) organizations that file a group return that does not include the filing organization's individual financial information.

INCOME

Contributions from the public	\$ _____
Government Grants	\$ _____
Other revenue	\$ _____
TOTAL REVENUE	\$ _____

EXCESS or DEFICIT	\$ _____
TOTAL Assets	\$ _____
TOTAL Liabilities	\$ _____

END OF YEAR FUND BALANCE/NET WORTH (Assets minus Liabilities) \$ _____

SECTION B: REQUIRED FOR INITIAL REGISTRATION ONLY

1. Address of registered agent in the State of Minnesota or the address of the person who has custody of the organization's books and records if not kept at the organization's office.

Name N/A - books and records are kept at the organization's office
Street and Number _____
City _____ State _____ Zip _____ Telephone # _____

2. Type of legal entity (**Attach** the creating document):

Nonprofit corporation Trust Unincorporated association Other _____

3. Place and date the organization was incorporated: District of Columbia 07/14/1975
(state) (date)

4. Is the organization exempt from federal income taxes?

Yes (**Attach** a copy of the IRS determination letter) Status: 501(c)(3)
 No Date organization submitted Form 1023 to the IRS _____

5. If the organization is not exempt from federal income taxes and uses a fiscal agent, state the fiscal agent's name, address and federal EIN: _____

6. Has the organization been denied the right to solicit contributions?

a. By any government agency? Yes No If yes, attach explanation.
b. By any court? Yes No If yes, attach explanation.

7. Explain in detail the charitable purposes of the organization, including major program activities.

see attached Purpose Statement

8. Please mark all items that describe the organization's charitable mission:

Arts & Culture Human Services Civic/Lobbying International Health
 Environment Mental Health Education Religious Other Legal Aid

Or: List the NTEE code(s) that describe the organization's purpose: N/A

9. Which of the above two best describes the organization's primary purpose(s)?

1. Legal Aid 2. _____

10. Check one or more methods of solicitation the organization anticipates using:

Telephone appeals Grant writing Sweepstakes Other events, email and
 Direct mail Internet Media personal contact

11. State the total contributions the organization received during the accounting year last ended:
\$ 293,000.00

12. **Attach** a list of organization's officers, directors, trustees, and chief executive officer, including their titles, addresses, and total annual compensation paid to each. Attached

SECTION C: REQUIRED FOR ANNUAL REPORTING ONLY

ALL Annual Report filers MUST complete questions 1-6

1. Has the organization's accounting year changed since the last report was filed? Yes No
If yes, provide the new year-end date: _____

2. **Attach** an explanation if there has been any change in the organization's tax status with the Internal Revenue Service; a significant change in the purposes of the organization; or if the organization's right to solicit funds has been denied, suspended, revoked or enjoined by any state agency or court in any state, or if there are proceedings pending. None Attached

3. List of the five highest paid directors, officers, and employees of the organization and its related organizations, as that term is defined by section 317A.011, subdivision 18, that receive total compensation of more than \$100,000, together with the compensation paid to each. For purposes of this subdivision, "compensation" is defined as the total amount reported on Form W-2 (Box 5) or Form 1099-MISC (Box 7) issued by the organization and its related organizations to the individual. The value of fringe benefits and deferred compensation paid by the charitable organization and all related organizations as that term is defined by section 317A.011, subdivision 18, shall also be reported as a separate item for each person whose compensation is required to be reported pursuant to this subdivision.

	Name/Title	Compensation	Deferred Compensation	Fringe Benefits
1				
2				
3				
4				
5				

4. **Attach** a list of organization's board of directors. Attached Included in IRS Return

5. **Attach a GAAP audit** if total revenue exceeds \$750,000. Attached Audit not included under the Food Shelf Exemption (excluding from total revenue the value of food donated to a nonprofit food shelf for redistribution at no cost). Audit not required

6. Minnesota law requires that an organization file a copy of all tax or informational returns filed with the IRS, including IRS Form 990-N (e-Postcard), 990, 990-EZ, or 990-PF, including all schedules and amendments. Has the organization included with this annual report a copy of all tax or informational returns, including IRS Form 990-N (e-Postcard), 990, 990-EZ or 990-PF that it filed with the IRS (excluding Schedule B or any other donor list)? Yes No (Not required to file a return with IRS or files a group return).

NOTE: By answering YES to the above question, you are attesting that the IRS informational return filed with this office is an exact copy, including all schedules and attachments, of the IRS informational return filed with the IRS (excluding Schedule B or any other donor list the IRS may require).

7. This Section C(7) must be completed by organizations that: 1) do not file an informational return with the IRS; 2) file a 990-N (e-Postcard), 990-EZ, or 990-PF; 3) file a group return that does not include the filing organization's functional expense information; or 4) file an IRS Form 990 that does not contain a completed functional expenses statement within the IRS Form 990.

Statement of Functional Expenses				
	(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraising expenses
1 Grants and other assistance to governments and organizations in the U.S.				
2 Grants and other assistance to individuals in the U.S.				
3 Grants and other assistance to governments, organizations, and individuals outside the U.S.				
4 Benefits paid to or for members				
5 Compensation of current officers, directors, trustees, and key employees				
6 Compensation not included above, to disqualified persons (as defined under section 4958(f)(1) and persons described in section 4958(c)(3)(B))				
7 Other salaries and wages				
8 Pension plan contributions (include section 401(k) and section 403(b) employer contributions)				
9 Other employee benefits				
10 Payroll taxes				
11 Fees for services (non-employees):				
a Management				
b Legal				
c Accounting				
d Lobbying				
e Professional fundraising services				
f Investment management fees				
g Other				
12 Advertising and promotion				
13 Office expenses				
14 Information technology				
15 Royalties				
16 Occupancy				
17 Travel				
18 Payments of travel or entertainment expenses for any federal, state, or local public officials				
19 Conferences, conventions, and meetings				
20 Interest				
21 Payments to affiliates				
22 Depreciation, depletion, and amortization				
23 Insurance				
24 Other expenses. Itemize expenses not covered above. (Expenses grouped together and labeled miscellaneous may not exceed 5% of total expenses shown on line 25 below.)				
a				
b				
c				
d All other expenses				
25 Total functional expenses. Add lines 1 through 24d	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
26 Joint costs. Check here <input type="checkbox"/> if following SOP 98-2. Complete this line only if the organization reported in column (B) joint costs from a combined educational campaign and fundraising solicitation				

Must be prepared in accordance with generally accepted accounting principles.

For 990-EZ filers: Column A, Line 25 should equal line 17 IRS Form 990-EZ

For 990-PF filers: Column A, Line 25 should equal line 26 IRS Form 990-PF

The total of Column A, lines 1 through 24d should equal line 25a.

The total of lines 25b, 25c and 25d, should equal line 25a

SECTION D: REQUIRED FOR INITIAL REGISTRATION & ANNUAL REPORTING

BOARD OF DIRECTORS
SIGNATURES AND ACKNOWLEDGMENT

We, the undersigned, state and acknowledge that we are duly constituted officers of this organization, being the _____(Title) and _____(Title) respectively, and that we execute this document on behalf of the organization pursuant to the resolution of the _____(Board of Directors, Trustees, or Managing Group) adopted on the _____ day of _____, 20____, approving the contents of the document, and do hereby certify that the _____(Board of Directors, Trustees or Managing Group) has assumed, and will continue to assume, responsibility for determining matters of policy, and have supervised, and will continue to supervise, the finances of the organization. We further state that the information supplied is true, correct and complete to the best of our knowledge.

Name (Print)

Name (Print)

Signature

Signature

Title

Title

Date

Date

★ NOTICE ★

Documents required to be filed are public records. Please do not include *social security numbers, driver's license numbers or bank account numbers* on the documents filed with this Office as they are not required, but could become part of the public records. A charitable organization is not required to file a list of its donors. If it is included, it may become part of the public file.

CERTIFICATE
AS TO ESTABLISHMENT OF LEGAL SERVICES CORPORATION
AND DESIGNATION OF ITS AGENT
TO ACCEPT SERVICE OF PROCESS

To: The Recorder of Deeds, D. C.
Washington, D.C.

I, Roger C. Cramton, Chairman of the Board of Directors of Legal Services Corporation, hereby certify as follows:

1. The corporation known as Legal Services Corporation (hereinafter called "the Corporation") was established in the District of Columbia as a private nonmembership nonprofit corporation by Act of Congress, cited as the Legal Services Corporation Act of 1974, Public Law 93-355, approved July 25, 1974, 88 Stat. 378, 42 U.S.C. 2996-2971e (hereinafter called "the Act"), a copy of which is attached hereto.

2. The purposes for which the Corporation is organized and the powers, duties, and limitations of the Corporation are set forth in the Act.

3. The Act provides that the Board of Directors shall consist of eleven voting members appointed by the President of the United States by and with the advice and consent of the Senate. The names and addresses of the initial Directors so appointed are as follows:

Marshall J. Breger	University of Texas School of Law 2500 Red River Austin, Texas 78705
--------------------	--

J. Melville Broughton, Jr.	Broughton, Broughton, MacConnell & Boxler P. O. Box 2387 Raleigh, N. C. 27602
----------------------------	---

Marlow W. Cook

FILED
JUL 14 1973

Shook, Hardy & Bacon Suite 1240, 1776 K St., N. W. Washington, D.C. 20006

BY: DHC

Roger C. Cramton	Cornell Law School Ithaca, N. Y. 14853
William J. Janklow	State Capitol Pierre, South Dakota 57501
Robert J. Kutak	Kutak, Rock, Cohen, Campbell Garfinkle & Woodward 600 Woodmen Tower Omaha, Nebraska 68102
Rudolfo Montejano ^{Rec}	Cohen, Stokke, Owen & Davis Suite 912, 1212 N. Broadway Santa Ana, California 92701
Revius O. Ortigue, Jr.	2140 St. Bernard Street New Orleans, La. 70112
Glee S. Smith, Jr.	Smith & Burnett P. O. Box 360 Larned, Kansas 67550
Glenn C. Stophel	Stophel, Caldwell & Heggie 722 Chestnut Street Chattanooga, Tennessee 37402
Samuel D. Thurman	University of Utah College of Law Salt Lake City, Utah 84112

4. The Corporation maintains its principal office in the District of Columbia at 1725 K Street, N. W.

5. Pursuant to Section 1003(b) of the Act, the following person has been designated as agent to accept service of process for the Corporation:

C T Corporation System
918 - 16th Street, N. W.
Washington, D.C. 20006


Roger C. Cramton

Dated: July 11, 1975

DISTRICT OF COLUMBIA) ss:

The undersigned, a notary public in and for the District of Columbia, hereby certifies that on this 11th day of July, 1975, personally appeared before me Roger C. Cramton, who, being by me first duly sworn, declared that he signed the foregoing instrument and that the statements therein contained are true.

Robert C. Carter
Notary Public

My commission expires May 31, 1979

[Notarial Seal]



District Director
Internal Revenue Service

Date:

In reply refer to: Case 600724

September 15, 1975 EO:7204:R. Matthews

Telephone: 301-962-4773

Legal Services Corporation
1725 K Street, N. W., Room 413
Washington, D. C. 20006

Accounting Period Ending: September 30
Form 990 Required: Yes No
Advance Ruling Period Ends: September 30, 1976

Based on the information supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

Because you are a newly created organization, we are not now making a final determination of your foundation status under section 509(a) of the Code. However, we have determined that you can reasonably be expected to be a publicly supported organization of the type described in section 509(a)(1) and 170(b)(1)(A)(vi).

Accordingly, you will be treated as a publicly supported organization, and not as a private foundation, during an advance ruling period. This advance ruling period begins on the date of your inception and ends on the date shown above.

Within 90 days after the end of your advance ruling period, you must submit to us information needed to determine whether you have met the requirements of the applicable support test during the advance ruling period. If you establish that you have been a publicly supported organization, you will be classified as a section 509(a)(1) or 509(a)(2) organization so long as you continue to meet the requirements of the applicable support test. If, however, you do not meet the public support requirements during the advance ruling period, you will be classified as a private foundation for future periods. Also, in the event you are classified as a private foundation, you will be treated as a private foundation from the date of your inception for purposes of sections 507(d) and 4940.

Grantors and donors may rely on the determination that you are not a private foundation until 90 days after the end of your advance ruling period. In addition, if you submit the required information

Form L-391 (4-73)

within the 90 days. Grantors and donors may continue to rely on the advance determination until the Service makes a final determination of your foundation status. However, if notice that you will no longer be treated as a section 170(b)(1)(A)(vi) organization is published in the Internal Revenue Bulletin, grantors and donors may not rely on this determination after the date of such publication. Also, a grantor or donor may not rely on this determination if he was in part responsible for, or was aware of, the act or failure to act that resulted in your loss of section 170(b)(1)(A)(vi) status, or acquired knowledge that the Internal Revenue Service had given notice that you would be removed from classification as a section 170(b)(1)(A)(vi) organization.

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

You are not liable for social security (FICA) taxes unless you file a waiver of exemption certificate as provided in the Federal Insurance Contributions Act. You are not liable for the taxes imposed under the Federal Unemployment Tax Act (FUTA).

Organizations that are not private foundations are not subject to the excise taxes under Chapter 42 of the Code. However, you are not automatically exempt from other Federal excise taxes. If you have any questions concerning these taxes, please let us know.

If your sources of support, or your purposes, character, or method of operation is changed, you should let us know so we can consider the effect of the change on your status. Also, you should inform us of all changes in your name or address.

If the yes box at the top of this letter is checked, you are required to file Form 990, Return of Organization Exempt From Income Tax, only if your gross receipts each year are normally more than \$5,000. The return is due by the 15th day of the fifth month after the end of your annual accounting period. The law imposes a penalty of \$10 a day, up to a maximum of \$5,000, for failure to file the return on time.

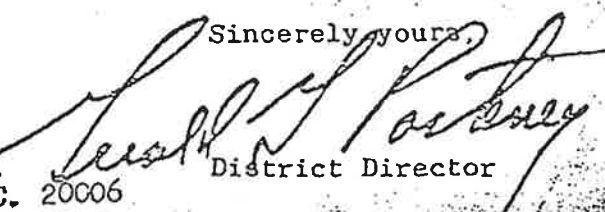
You are not required to file Federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T. In this letter we are not determining whether any of your present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

You need an employer identification number even if you have no employees. If an employer identification number was not entered on your application, a number will be assigned to you and you will be advised of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

Sincerely yours,

cc: R. Kapp, D. Tatel,

A. Wilensky
Hogan & Hartson
815 Connecticut Ave., N.W.
Suite 600, Washington, D.C. 20006


District Director

Form L-391 (4-75)

Case # 52627105E0

Date: November 2, 1976

Our Letter Dated:

September 15, 1975

Person to Contact:

J. Bache

Contact Telephone Number:

(301) 962-4774

Legal Services Corporation
733 Fifteenth Street, N.W.
Washington, D.C. 20005

This modifies our letter of the above date in which we stated that you would be treated as an organization which is not a private foundation until the expiration of your advance ruling period.

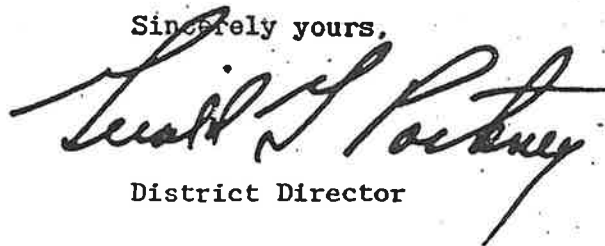
Based on the information you submitted, we have determined that you are not a private foundation within the meaning of section 509(a) of the Internal Revenue Code, because you are an organization of the type described in section 170(b)(1)(A)(vi). Your exempt status under section 501(c)(3) of the code is still in effect.

Grantors and contributors may rely on this determination until the Internal Revenue Service publishes notice to the contrary. However, a grantor or a contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act that resulted in your loss of section 170(b)(1)(A)(vi) status, or acquired knowledge that the Internal Revenue Service had given notice that you would be removed from classification as a section 170(b)(1)(A)(vi) organization.

Because this letter could help resolve any questions about your private foundation status, please keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,



District Director

cc: Frank M. Chapper, Esquire
Caplin & Drysdale
1101 - 17th Street, N.W.
Washington, D.C. 20036

Legal Services Corporation
(EIN 52-1039060)
3333 K Street, NW, 3rd Floor
Washington, DC 20007 (202) 295-1500

ORGANIZATION

On July 25, 1974, President Richard M. Nixon signed the law creating the Legal Services Corporation (LSC). Under the LSC Act, LSC is charged with providing financial support or legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance. LSC today is the single largest source of funding for civil legal assistance to the nation's poor.

LSC operates as an independent 501(c)(3) nonprofit corporation that promotes equal access to justice and provides grants for high-quality civil legal assistance to low-income Americans. LSC distributes more than 90 percent of its total funding to 134 independent nonprofit legal aid programs that provide free civil legal services to low-income Americans from more than 800 offices located in every state, the District of Columbia and the territories of the United States of America. LSC is headed by a bipartisan board of directors whose 11 members are appointed by the President and confirmed by the Senate.

PURPOSE OF THE ORGANIZATION

LSC promotes equal access to justice by awarding grants to legal services providers through a competitive grants process, conducting compliance reviews and program visits to oversee program quality and compliance with statutory and regulatory requirements as well as restrictions that accompany LSC funding, and by providing training and technical assistance to programs. LSC encourages its grantees to leverage limited resources by partnering and collaborating with other funders of civil legal aid, including state and local governments, Interest on Lawyers' Trust Accounts (IOLTA), access to justice commissions, the private bar, philanthropic foundations, and the business community.

The United States Congress, in the declaration of purpose of the Legal Services Corporation Act, found that "there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances" ; that "there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel" ; and that "providing legal assistance to those who face an economic barrier to adequate legal counsel will serve best the ends of justice and assist in improving opportunities for low-income persons." In keeping with this mandate, LSC establishes as its mission promoting equal access to justice in our Nation and funding the provision of high quality civil legal assistance to low-income persons.

GENERAL PURPOSE FOR WHICH CONTRIBUTIONS WILL BE USED

Contributions will be used to fund research, activities, and programs that will educate and promote public awareness of our organization and grantees, as well as improve the delivery of civil legal services.

Name	Title	Address	Total Annual Compensation
Sharon L. Browne	Director	3333 K Street, NW Washington D.C. 20007	\$3,520.00
Robert J. Grey Jr.	Director	3333 K Street, NW Washington D.C. 20007	\$4,160.00
Charles N.W. Keckler	Director	3333 K Street, NW Washington D.C. 20007	\$3,840.00
Harry J.F. Korrell III	Director	3333 K Street, NW Washington D.C. 20007	\$4,800.00
John G. Levi	Chairman	3333 K Street, NW Washington D.C. 20007	\$6,080.00
Victor B. Maddox	Director	3333 K Street, NW Washington D.C. 20007	\$2,880.00
Laurie I. Mikva	Director	3333 K Street, NW Washington D.C. 20007	\$3,520.00
Martha L. Minow	Vice Chairman	3333 K Street, NW Washington D.C. 20007	\$3,200.00
Father Pius Pietrzyk, OP	Director	3333 K Street, NW Washington D.C. 20007	\$3,200.00
Julie A. Rieskin	Director	3333 K Street, NW Washington D.C. 20007	\$4,800.00
Gloria Valencia-Weber	Director	3333 K Street, NW Washington D.C. 20007	\$3,520.00
James J. Sandman	President	3333 K Street, NW Washington D.C. 20007	\$173,528.00
Victor M. Fortuno	Vice President for Legal Affairs, General Counsel, and Corporate Secretary	3333 K Street, NW Washington D.C. 20007	\$163,704.00
David L. Richardson	Treasurer & Comptroller	3333 K Street, NW Washington D.C. 20007	\$161,773.00
Lynn Jennings	Vice President for Grants Management	3333 K Street, NW Washington D.C. 20007	\$6,821.00



BOARD OF DIRECTORS

RESOLUTION

APPROVING THE MINNESOTA CHARITABLE ORGANIZATION INITIAL REGISTRATION & ANNUAL REPORT FORM

WHEREAS, sections 309.52 and 309.53 of the Minnesota Charitable Solicitations Act require charitable organizations that solicit in the state of Minnesota and that are not otherwise exempt to register as a soliciting charity;

WHEREAS, the Minnesota Charitable Organization Initial Registration & Annual Report Form requires a resolution by the LSC Board of Directors (“Board”) approving the contents of the document and authorizing LSC’s officers to execute the document;

WHEREAS, the Legal Services Corporation (“LSC” or “Corporation”) seeks to solicit financial contributions from individuals, corporations, law firms, and foundations in the state of Minnesota; and

WHEREAS, LSC has completed the Minnesota Charitable Organization Initial Registration & Annual Report Form and presented it to the Board to approve the contents of the document;

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Directors approves the contents of the attached Minnesota Charitable Organization Initial Registration & Annual Report Form and authorizes LSC’s officers to submit the document to the Attorney General of Minnesota.

Adopted by the Board of Directors
On July 23, 2013

John G. Levi
Chairman

Attest:

Ronald S. Flagg
Vice President for Legal Affairs,
General Counsel & Corporate Secretary

North Dakota Registration



**CHARITABLE ORGANIZATION
REGISTRATION STATEMENT**

SECRETARY OF STATE
SFN 11300 (11-2012)

FOR OFFICE USE ONLY

ID Number
WO Number
Issued By

FEE: \$25.00

Instructions:

- For reference, see North Dakota Century Code Section 50-22.
- Please type or print, complete all blanks, enter "None" when appropriate.
- Any omission or failure to report complete and/or accurate information in this application may result in an investigation by the Secretary of State and/or the Attorney General and may result in forfeiture of your registration.

Privacy: In accordance with the provisions in N.D.C.C. Chapter 44-04, the disclosure of a Federal ID number is voluntary. Failure to provide it will not result in the rejection of the registration. The number is not disclosed to the public. It is used by the Secretary of State to accurately maintain charitable organization records.

Secretary of State
State of North Dakota
600 E Boulevard Ave Dept 108
Bismarck ND 58505-0500
Telephone 701-328-3665
Toll Free 800-352-0867 Ext 328-3665
Fax 701-328-1690
Website: www.nd.gov/sos

1.	Legal Name of Organization	Federal ID Number		
	Name(s) Under Which the Organization Solicits Contributions			
	Street and Mailing Address of Principal Executive Office			
	City	State	ZIP Code	Telephone Number
	Street and Mailing Address of Principal Office in North Dakota <input type="checkbox"/> None			
	City	State	ZIP Code	Telephone Number
	The registrant is a: <input type="checkbox"/> Unincorporated nonprofit association <input type="checkbox"/> Non-profit Corporation <input type="checkbox"/> Trust <input type="checkbox"/> State of Origin: Year Organized:			
2.	Is the organization exempt from federal income taxes? If yes, attach a copy of your IRS determination letter. If the application is pending attach a copy of the first page of the application. <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Application Pending Status: 501(c)(_____)			
3.	Check one or more methods of soliciting the organization anticipates using. <input type="checkbox"/> Direct Mail <input type="checkbox"/> Radio <input type="checkbox"/> Telemarketing <input type="checkbox"/> Personal Contact <input type="checkbox"/> Television <input type="checkbox"/> National <input type="checkbox"/> Local <input type="checkbox"/> Newspaper <input type="checkbox"/> Vending Business <input type="checkbox"/> Show or Concert <input type="checkbox"/> Magazines or Periodicals <input type="checkbox"/> Other (please describe): <input type="checkbox"/> Grant Writing <input type="checkbox"/> Membership Enrollment			
4.	Period of Time During Which Solicitation is to be Conducted			
5.	General Purposes for Which Organized			
6.	General Purposes for Which Contributions to be Solicited will be Used			
7.	Name of Person in Charge of Organization's Books and Records if not Kept at the Organization's Office			Telephone Number
	Address	City	State	ZIP Code
8.	Attach a list of names and addresses of all directors, officers, and trustees. Indicate the individuals having the final discretion or authority as to the distribution and use of contributions received.			

9. Attach a list of total compensation, including salaries, fees, bonuses, fringe benefits, severance payments, and deferred compensation, paid to employees by the charitable organization and all its affiliated organizations. see Schedule J of 990

10. Month and day accounting year ends

11. State the total contributions the organization received during the last ended accounting year
\$

12. Attach financial statement or IRS Form 990. If neither is available, complete the following for the most recent twelve-month accounting year.

INCOME		EXPENSES	
Contributions from the public	\$	Amount spent for program or charitable purposes	\$
Government Grants	\$	Management / general expense	\$
Fees for program service	\$	Fund-raising expense	\$
Other Revenue	\$	Amounts paid to affiliated organizations	\$
TOTAL INCOME	\$	TOTAL EXPENSES	\$
EXCESS or Deficit	\$		
TOTAL Assets	\$	END OF YEAR FUND BALANCE / NET WORTH	
TOTAL Liabilities	\$	(Assets minus Liabilities)	\$

13. Will the solicitation be conducted by voluntary unpaid solicitors paid solicitors both

If in whole or part by paid solicitor, list the name and address of each professional fundraiser supplying the solicitors and a copy of the agreement. Attach an additional sheet if necessary. If a contract, written agreement, or statement of any arrangement is made between an applicant and professional fundraiser/solicitor after a solicitation registration, the applicant agrees to file a copy of such contract or agreement with the Secretary of State.

Name of Professional Fundraiser		Telephone Number	
Address	City	State	ZIP Code
Name of Professional Fundraiser		Telephone Number	
Address	City	State	ZIP Code

14. Has your organization or a member thereof been involved in any civil or criminal litigation in the past year?
 Yes - attach a summary statement of the litigation, the outcome, and the parties involved. No

15. Has your organization been denied the right to solicit contributions, at any time, by any government or any court?
 Yes - attach an explanation No

SIGNATURE AND CERTIFICATION

I, the undersigned, state and certify that I am a duly constituted officer of this organization, being the President (Title) and that this Registration Statement is executed on behalf of the organization by me pursuant to resolutions of the Legal Services Corporation's (Board of Directors, Trustees, or Managing Group) adopted on the 23 day of July, 2013, approving the contents of the Registration Statement, and do hereby certify that the Legal Services Corporation's (Board of Directors, Trustees or Managing Group) has assumed, and will continue to assume responsibility for determining matters of policy, and have supervised, and will continue to supervise the finances of the organization. I, the undersigned, state that the information supplied is true, correct and complete to the best of my knowledge and I understand that if I make a false statement in this registration, I may be subject to criminal penalties.

James J. Sandman
Name (PRINT)

July 23, 2013
Date

Signature

Legal Services Corporation
(EIN 52-1039060)
3333 K Street, NW, 3rd Floor
Washington, DC 20007
(202) 295-1500

Officers

James J. Sandman

President

Ronald Flagg

General Counsel, Corporate Secretary and Vice President
for Legal Affairs

Lynn A. Jennings

Vice President for Grants Management

David Richardson

Treasurer and Comptroller, Office of Financial and
Administrative Services

Board Members

LSC is headed by an 11-member Board of Directors
appointed by the President and confirmed by the Senate.

Board Chairman

[John G. Levi](#)

Vice Chair

[Martha Minow](#)

Members

[Sharon L. Browne](#)

[Robert J. Grey Jr.](#)

[Charles N.W. Keckler](#)

[Harry J.F. Korrell III](#)

[Victor B. Maddox](#)

[Laurie Mikva](#)

[Father Pius Pietrzyk, O.P.](#)

[Julie A. Reiskin](#)

[Gloria Valencia-Weber](#)

The address and telephone number for all Officers,
Directors, and key personnel is:
3333 K Street, NW, 3rd Floor, Washington, DC 20007
202-295-1500

Legal Services Corporation
(EIN 52-1039060)
3333 K Street, NW, 3rd Floor
Washington, DC 20007
(202) 295-1500

Responsible Individuals			
	Name / Title	Address	Phone
Use of Contributions Received	James J. Sandman, President	3333 K Street, N.W., 3 rd Floor, Washington DC 20007	(202) 295-1500
Custody of Funds	David L. Richardson, Treasurer/ Comptroller	3333 K Street, N.W., 3 rd Floor, Washington DC 20007	(202) 295-1500
Funds Distribution	David L. Richardson, Treasurer/ Comptroller	3333 K Street, N.W., 3 rd Floor, Washington DC 20007	(202) 295-1500
Fundraising	Wendy Rhein, Chief Development Officer	3333 K Street, N.W., 3 rd Floor, Washington DC 20007	(202) 295-1500
Custody of Records	David L. Richardson, Treasurer	3333 K Street, N.W., 3 rd Floor, Washington DC 20007	(202) 295-1500
Check Signers	James J. Sandman, President	3333 K Street, N.W., 3 rd Floor, Washington DC 20007	(202) 295-1500
	David L. Richardson, Treasurer	3333 K Street, N.W., 3 rd Floor, Washington DC 20007	(202) 295-1500
Banks	Bank of America	730 15th Street, NW, Washington, DC 20005	888-589-3473

Part II Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees. Use duplicate copies if additional space is needed.

For each individual whose compensation must be reported in Schedule J, report compensation from the organization on row (i) and from related organizations, described in the instructions, on row (ii). Do not list any individuals that are not listed on Form 990, Part VII.

Note. The sum of columns (B)(i)-(iii) for each listed individual must equal the total amount of Form 990, Part VII, Section A, line 1a, applicable column (D) and (E) amounts for that individual.

(A) Name		(B) Breakdown of W-2 and/or 1099-MISC compensation			(C) Retirement and other deferred compensation	(D) Nontaxable benefits	(E) Total of columns (B)(i)-(D)	(F) Compensation reported as deferred in prior Form 990
		(i) Base compensation	(ii) Bonus & incentive compensation	(iii) Other reportable compensation				
1 ALICE DICKERSON	(i)	101,501.	0	0	8,166.	12,675.	122,342.	0
	(ii)	0	0	0	0	0	0	0
2 JEFFREY MORNINGSTAR	(i)	138,778.	0	0	11,362.	16,511.	166,651.	0
	(ii)	0	0	0	0	0	0	0
3 JAMES J SANDMAN	(i)	173,528.	0	0	14,767.	27,338.	215,633.	0
	(ii)	0	0	0	0	0	0	0
4 VICTOR M. FORTUNO	(i)	163,704.	0	0	13,931.	28,011.	205,646.	0
	(ii)	0	0	0	0	0	0	0
5 DAVID L. RICHARDSON	(i)	161,773.	0	0	13,767.	27,942.	203,482.	0
	(ii)	0	0	0	0	0	0	0
6 JEFFREY E. SCHANZ	(i)	163,704.	0	0	13,931.	14,698.	192,333.	0
	(ii)	0	0	0	0	0	0	0
7 LAURIE A. TARANTOWICZ	(i)	155,267.	0	0	13,213.	27,473.	195,953.	0
	(ii)	0	0	0	0	0	0	0
8 JOEL S. GALLAY	(i)	154,524.	0	0	13,150.	17,881.	185,555.	0
	(ii)	0	0	0	0	0	0	0
9 DAVID C. MADDOX	(i)	154,254.	0	0	13,150.	27,521.	194,925.	0
	(ii)	0	0	0	0	0	0	0
10 RONALD D. MERRYMAN	(i)	154,524.	0	0	13,150.	14,767.	182,441.	0
	(ii)	0	0	0	0	0	0	0
11 JANET A. LABELLA	(i)	148,691.	0	0	12,654.	22,164.	183,509.	0
	(ii)	0	0	0	0	0	0	0
12 JOHN MEYER	(i)	145,663.	0	0	12,396.	18,160.	176,219.	0
	(ii)	0	0	0	0	0	0	0
13	(i)							
	(ii)							
14	(i)							
	(ii)							
15	(i)							
	(ii)							
16	(i)							
	(ii)							

Legal Services Corporation
(EIN 52-1039060)
3333 K Street, NW, 3rd Floor
Washington, DC 20007 (202) 295-1500

ORGANIZATION

On July 25, 1974, President Richard M. Nixon signed the law creating the Legal Services Corporation (LSC). Under the LSC Act, LSC is charged with providing financial support or legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance. LSC today is the single largest source of funding for civil legal assistance to the nation's poor.

LSC operates as an independent 501(c)(3) nonprofit corporation that promotes equal access to justice and provides grants for high-quality civil legal assistance to low-income Americans. LSC distributes more than 90 percent of its total funding to 134 independent nonprofit legal aid programs that provide free civil legal services to low-income Americans from more than 800 offices located in every state, the District of Columbia and the territories of the United States of America. LSC is headed by a bipartisan board of directors whose 11 members are appointed by the President and confirmed by the Senate.

PURPOSE OF THE ORGANIZATION

LSC promotes equal access to justice by awarding grants to legal services providers through a competitive grants process, conducting compliance reviews and program visits to oversee program quality and compliance with statutory and regulatory requirements as well as restrictions that accompany LSC funding, and by providing training and technical assistance to programs. LSC encourages its grantees to leverage limited resources by partnering and collaborating with other funders of civil legal aid, including state and local governments, Interest on Lawyers' Trust Accounts (IOLTA), access to justice commissions, the private bar, philanthropic foundations, and the business community.

The United States Congress, in the declaration of purpose of the Legal Services Corporation Act, found that "there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances" ; that "there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel" ; and that "providing legal assistance to those who face an economic barrier to adequate legal counsel will serve best the ends of justice and assist in improving opportunities for low-income persons." In keeping with this mandate, LSC establishes as its mission promoting equal access to justice in our Nation and funding the provision of high quality civil legal assistance to low-income persons.

GENERAL PURPOSE FOR WHICH CONTRIBUTIONS WILL BE USED

Contributions will be used to fund research, activities, and programs that will educate and promote public awareness of our organization and grantees, as well as improve the delivery of civil legal services.



BOARD OF DIRECTORS

RESOLUTION

APPROVING THE NORTH DAKOTA CHARITABLE ORGANIZATION REGISTRATION STATEMENT

WHEREAS, N.D. Cent. Code § 50-22-02 requires charitable organizations to file a registration statement with the Secretary of State of North Dakota prior to soliciting contributions from persons in North Dakota;

WHEREAS, the North Dakota Charitable Registration Statement (“Registration Statement”) requires a resolution by the Board of Directors (“Board”) of the Legal Services Corporation (“LSC” or “Corporation”) approving the contents of the Registration Statement and authorizing an LSC officer to execute the document;

WHEREAS, LSC seeks to solicit financial contributions from individuals, corporations, law firms, and foundations in the state of North Dakota; and

WHEREAS, LSC has completed the Registration Statement and presented it to the Board to approve the contents of the document;

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Directors approves the contents of the attached North Dakota Charitable Registration Statement and authorizes an LSC officer to submit the document to the Secretary of State of North Dakota.

Adopted by the Board of Directors
On July 23, 2013

John G. Levi
Chairman

Attest:

Ronald S. Flagg
*Vice President for Legal Affairs,
General Counsel & Corporate Secretary*

LSC Development Plan



Initial Development Plan

Wendy Rhein
July 2013

Timeline

- January 2011 – Osborne Group presents assessment and recommendations based on feasibility study of LSC conducting private fundraising
- June 2012 – Osborne Group presents external study results.
- Report on July 2012 – Board approves a gift acceptance protocol.
- September 2012 – LSC Development Plan presented
- April 15, 2013 – Fundraising objectives approved by IAC.
- May 6, 2013 – Chief Development Officer joins staff.

Statement of Need

- Justice for All are not only the last three words of the Pledge of Allegiance. Regardless of income, all Americans should be able to seek justice, and to do that, we all must be able to effectively access the justice system.
- LSC's 134 grantees impacted the lives of more than 2.3 million people in 2011; however, the demand for legal aid far outweighs the available resources.
- Almost 1 in 5 Americans – 61 million people - are eligible for income-based civil legal aid.

Why Fund LSC?

- Because LSC has unparalleled national reach and experience.

Beginning its 40th year, LSC is a respected funder of a national network of more than 130 legal aid programs in every state and territory in the country.

- Because LSC is financially responsible.

LSC's leadership focuses on results and its prudent stewardship of funding. LSC has appointed and adopted the recommendations of a blue-ribbon Fiscal Oversight Task Force in 2012. LSC has an in-house Inspector General charged with investigating any allegations of waste or fraud.

- Because LSC's investments narrow the justice gap.

No other legal aid organization has the talent, experience, and on-the-ground knowledge that LSC and its grantees have. With better information and more resources, LSC can support the largest network of civil legal aid providers reach more Americans who are vulnerable and in crisis.

Program Investments

- Leadership and Capacity Building
 - Advancing Technology
 - Pro Bono Innovation
 - Fellowships
- Special Projects and Research

Leadership and Capacity Building

- Leadership Training Institute for current and future leaders in civil legal aid
- Executive Director training – LSC will ensure that executive directors are non-profit entrepreneurs, technology adopters, and mission-driven communicators
- A High Tech online learning center
- LSC grantees have compelling stories to tell on the effectiveness of civil legal aid and LSC will provide expert communications training
- Every other year, LSC will host a conference of all its grantees that will be a structured, substantive, peer-learning, working convening

Advancing Technology

- TIG innovations optimized for mobile use
- Technology allows LSC-funded providers to reach an unprecedented number of low-income people, building legal aid programs' capacity and reach
- Replicate technologies that have been tested and proven successful to improve client access to high quality legal information and pro se assistance

Pro Bono Innovation

- Building on the Pro Bono Task Force recommendations
- Similar to the TIG program, create a Pro Bono Innovation Fund
- Offer web-based training and communication venues for pro bono coordinators at LSC-funded organizations
- Specific funding opportunities to help meet the needs to support veterans as encouraged by the White House

Fellowships

- Fellowship program for new graduates and/or emeritus attorneys designed to build support for civil legal services and pro bono within firms and law schools
- Create a program with EJW that would focus on rural needs
- Reinstitute the Reginald Heber Smith Fellowship program

Special Projects & Research

- Fund and disseminate research on effectiveness and long-term impact of civil legal aid on individuals and communities
- Engaging justices and others LSC recruits to speak at board meetings
- 40th Anniversary Events
- Lecture series on innovations in legal aid

Unique Advantages

- LSC's grantee network
- LSC's national standing as the single largest funder of civil legal aid
- These investments will alter service delivery and access across the country
- Transparency
- Focus on fiscal and programmatic excellence

Challenges

- Very few national foundations paying attention to civil legal aid
- LSC's internal programmatic infrastructure
- Otherwise, funders will fund partners directly.
- Current lack of development infrastructure – no database, systems, policies, registrations, etc.
- Starting from beginning with individual funders who need to be cultivated, which will take time

Prospects 2013

Individuals

Law Firms

Corporations

Foundations

Individuals

- Personal connections to IAC, Board or Staff
- Interest in justice issues, legal services, poverty reduction, “patriotic philanthropy”
- Interest in technology, training, education/fellowships, legal profession and development
- Multi-year commitments, naming opportunities

Law Firms

- Fellowships or pro bono
- 40th anniversary event sponsorships
- Naming opportunities
- Caution to not take funds away from grantees

Corporations

- Sponsorships for 40th anniversary events
- In-kind agreements for hotel, travel, technology hardware/software
- Corporate foundations
- Pro bono support

Foundations

- Focus on legal aid as the best tool to meet a foundation priority need
- Poverty, domestic violence, access to justice, legal services, legal aid, housing, health, veterans, fair employment, elderly, etc.

Next steps

- Continue state registrations
- Work with staff to create projects in these key areas
- Budgets
- Database for tracking prospects and progress
- 40th anniversary sponsorship levels and benefits
- Honorary committee for 40th anniversary
- Prospect portfolios for IAC, board members and key staff for remainder of 2013

V. Operations & Regulations Committee

OPERATIONS & REGULATIONS COMMITTEE

July 22, 2013

Agenda

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's meeting on September 20, 2012
3. Approval of minutes of the Committee's meeting on April 14, 2013
4. Discussion of 45 CFR Part 1613— Restrictions on Legal Assistance with Respect to Criminal Proceedings, and the Tribal Law and Order Act of 2010, Title II of Public Law 111-211
 - a) Panel discussion regarding the effects of the Tribal Law and Order Act of 2010 on LSC recipients serving tribal communities
 - Gloria Valencia-Weber, LSC Board of Directors, Emerita Professor of Law, University of New Mexico School of Law
 - Howard Belodoff, Associate Director and Indian Law Unit Director, Idaho Legal Aid Services, Inc.
 - John Dossett, General Counsel, National Congress of American Indians
 - Troy Eid, Chair, Indian Law & Order Commission
 - Carole Goldberg, Commissioner, Indian Law & Order Commission
 - Tracy Toulou, Director, Office of Tribal Justice, U.S. Department of Justice
 - b) Public comment
5. Consider and act on 45 C.F.R. Part 1626—Restrictions on Legal Assistance to Aliens
 - a) Rulemaking Options Paper (ROP) and Notice of Proposed Rulemaking (NPRM) regarding updates to Part 1626 to conform to existing statutory authorities
 - Mark Freedman, Senior Assistant General Counsel
 - Charlie Martel, Assistant General Counsel (by phone)
 - b) Public comment
6. Other public comment
7. Consider and act on other business
8. Consider and act on adjournment of meeting

Minutes of September 20, 2012 Meeting

**Legal Services Corporation
Meeting of the Operations and Regulations Committee
Open Session
Thursday, September 20, 2012**

Chairman Charles N.W. Keckler convened an open session telephonic meeting of the Legal Services Corporation's ("LSC") Operations and Regulations Committee ("the Committee") at 3:01 p.m. on Thursday, September 20, 2012. The meeting was held at the F. William McCalpin Conference Center, LSC Headquarters, 3333 K Street, NW, Washington D.C. 20007.

The following Committee members were present by telephone:

Charles N.W. Keckler, Chairperson
Robert J. Grey, Jr.
Harry J.F. Korrell, III
Laurie I. Mikva
John G. Levi, *ex officio*

Other Board members present:

Julie A. Reiskin
Gloria Valencia-Weber

Also attending were:

James J. Sandman	President
Richard L. Sloane	Chief of Staff and Special Assistant to the President
Rebecca Fertig	Special Assistant to the President
Kathleen McNamara	Executive Assistant to the President
Lynn Jennings	Vice President for Grants Management
Victor M. Fortuno	Vice President for Legal Affairs, General Counsel, and Corporate Secretary
Mark Freedman	Senior Assistant General Counsel, Office of Legal Affairs
Jeffrey E. Schanz	Inspector General
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the Inspector General
Matthew Glover	Associate Counsel, Office of the Inspector General
Lora Rath	Director, Office of Compliance and Enforcement
Janet LaBella	Director, Office of Program Performance
John Meyer	Director, Office of Information Management
Don Saunders	National Legal Aid and Defenders Association (NLADA)
Chuck Greenfield	National Legal Aid and Defenders Association (NLADA)

The following summarizes actions taken by, and presentations made to, the Committee:

Committee Chairman Keckler noted the presence of a quorum and called the meeting to order.

MOTION

Mr. Grey moved to approve the agenda. Ms. Mikva seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Ms. Mikva moved to approve the minutes of the Committee's July 27, 2012 meeting. Mr. Grey seconded the motion.

VOTE

The motion passed by voice vote.

Mr. Freedman gave a briefing on the Further Notice of Proposed Rulemaking (FNPR) on termination procedures, enforcement, and suspension procedures, and he answered Committee members' questions. Committee Chairman Keckler invited public comment on the FNPR and heard from Mr. Greenfield.

Committee Chairman Keckler invited other public comment and received none.

In other business, Ms. Mikva noted there was an error in the July 27, 2012 Committee minutes. Mr. Freedman offered to double check the transcript. Committee Chairman Keckler asked that a correction be made, if necessary.

MOTION

Ms. Mikva moved to adjourn the meeting. Mr. Grey seconded the motion.

VOTE

The motion passed by voice vote.

The meeting of the Committee adjourned at 3:58 p.m.

Minutes of April 14, 2013 Meeting

**Legal Services Corporation
Meeting of the Operations & Regulations Committee
Open Session**

Sunday, April 14, 2013

Chairman Charles N.W Keckler convened an open session meeting of the Legal Services Corporation's ("LSC") Operations and Regulations Committee ("the Committee") at 2:33 p.m. on Sunday, April 14, 2013. The meeting was held at the F. William McCalpin Conference Center, Legal Services Corporation, 3333 K Street, N.W. Washington, D.C. 20007.

The following Committee members were present:

Charles N.W. Keckler, Chairperson

Robert J. Grey, Jr.

Laurie I. Mikva

John G. Levi, *ex officio*

Other Board members present:

Sharon L. Browne (by telephone)

Martha L. Minow

Father Pius Pietrzyk

Julie A. Reiskin

Gloria Valencia-Weber

Also attending were:

James J. Sandman

President

Lynn Jennings

Vice President for Grants Management

Richard L. Sloane

Chief of Staff & Special Assistant to the President

Rebecca Fertig

Special Assistant to the President

Victor M. Fortunato

Vice President for Legal Affairs, General Counsel, and Corporate Secretary

Mark Freedman

Senior Assistant General Counsel, Office of Legal Affairs

Kara Ward

Assistant General Counsel, Office of Legal Affairs

Atitaya Rok

Staff Attorney, Office of Legal Affairs

Katherine Ward

Executive Assistant, Office of Legal Affairs

David L. Richardson

Comptroller and Treasurer

Jeffrey E. Schanz

Inspector General

Laurie Tarantowicz

Assistant Inspector General and Legal Counsel, OIG

Thomas Coogan

Assistant Inspector General for Investigations, OIG

David Maddox

Assistant Inspector General for Management and Evaluation, OIG

Janet LaBella

Director, Office of Program Performance

Carol Bergman

Director, Office of Government Relations and Public Affairs (GRPA)

Carl Rauscher

Director of Media Relations, GRPA

Lora M. Rath

Director, Office of Compliance and Enforcement

LaVon Smith	Office of Information Technology (OIT)
Eric Jones	OIT
Allan J. Tanenbaum	Non-Director Member, LSC Finance Committee
Chuck Greenfield	National Legal Aid and Defenders Association (NLADA)
Terry Brooks	American Bar Association
Leslye Orloff	NIWAP, American University Washington College of Law
Sofia Vivero	NIWAP, American University Washington College of Law
Dominique Martin	Law99.com

The following summarizes actions taken by, and presentations made to, the Committee:

Committee Chairman Keckler called the meeting to order.

MOTION

Mr. Levi moved to approve the agenda. Ms. Mikva seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Ms. Mikva moved to approve the minutes of the Committee's meeting of January 25, 2013, as amended by Ms. Browne. Mr. Levi seconded the motion.

VOTE

The motion passed by voice vote.

Ms. Ward presented the proposed Request for Information regarding representation of criminal defendants in tribal courts. She answered Committee members' questions. The Committee discussed having a panel presentation at the Board's July meeting in Denver, Colorado to discuss criminal representations in tribal courts.

MOTION

Ms. Mikva moved to recommend to the Board that it authorize publication of the Request for Information in the *Federal Register*. Mr. Grey seconded the motion.

VOTE

The motion passed by voice vote.

Next, Ms. Ward presented the proposed Notice of Rulemaking Workshop regarding potential changes to the private attorney involvement rule, 45 C.F.R. Part 1614, in a manner responsive to the recommendations of the Pro Bono Task Force Report.

MOTION

Committee Chairman Keckler moved to recommend to the Board that LSC hold the first rulemaking workshop in conjunction with the Board meeting in Denver in July, and the second workshop approximately thirty days later in Washington, D.C. Ms. Mikva seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Ms. Mikva moved to recommend to the Board that it authorize rulemaking workshops to consider rulemaking options regarding private attorney involvement in a manner responsive to the recommendations of the Pro Bono Task Force Report. Mr. Levi seconded the motion.

VOTE

The motion passed by voice vote.

Ms. Ward presented Management's request to initiate rulemaking to conform 45 C.F.R. Part 1626, restrictions on assistance to aliens, to existing statutory authorizations.

MOTION

Mr. Levi moved to recommend to the Board that it authorize the Committee to consider rulemaking options to conform 45 C.F.R. Part 1626, restrictions on assistance to aliens, to existing statutory authorizations. Ms. Mikva seconded the motion.

VOTE

The motion passed by voice vote.

Committee Chairman Keckler invited public comment. Mr. Greenfield, on behalf of NLADA, expressed support of LSC's rulemaking on Part 1626 restrictions on assistance to aliens. Ms. Orloff requested that LSC expedite its rulemaking on Part 1626. There was no other business to consider.

Ms. Mikva moved to adjourn the meeting. Mr. Levi seconded the motion.

VOTE

The motion passed by voice vote.

The meeting of the Committee adjourned at 4:00 p.m.

Tribal Court Fact Finding Panel Agenda and Background Materials

Tribal Court Fact-Finding Panel
July 22, 2013

1. Introduction of panel and purpose: Charles Keckler
2. Introduction of panel members: Professor Gloria Valencia-Weber
3. Background of statutory amendment to the LSC Act resulting from the Indian Arts and Crafts Amendment Act (IACAA), Tribal Law and Order Act of 2010 (TLOA), and Violence Against Women Reauthorization Act of 2013 (2013 VAWA), and the wide variety in tribal court systems and their varying states of sophistication and development: Professor Gloria Valencia-Weber
4. Panel Presentation: Panelists
 - a. **Status of tribes opting-in to the increased sentencing authority**
 - i. How many tribes have qualified/opted-in thus far, are currently working on qualifying/opting-in, and are expected to qualify/opt in?
 - ii. What would cause tribes not to opt in?
 - iii. Are there indicators or data that could give us a rough estimate or expectation of the probable number of tribes that will opt in?
 - iv. How does the Public Law 280 state authority over crimes in six states affect how tribes can “opt in” for the expanded criminal jurisdiction in the TLOA and VAWA?
 - b. **Impact of TLOA and 2013 VAWA on representation of criminal defendants in tribal courts**
 - i. Has there been an increase in the number of requests for assistance in criminal matters before tribal courts by eligible clients?
 - ii. Has there been an increase in court appointments to represent a criminal defendant in tribal court proceedings?
 - iii. What standards are used for establishing “indigent defendant”? (TLOA requires tribes to provide an indigent defendant the assistance of an attorney at the expense of the tribal government.)
 - c. **Impact of TLOA and 2013 VAWA on LSC grantees**
 - i. What kinds of situations would trigger a tribal court to ask LSC grantees for criminal representation?
 - ii. Will LSC grantee attorneys be compelled to accept tribal court appointments?
 - iii. What is the appointment process for attorneys to represent criminal defendants in tribal courts?
 - iv. If LSC grantee attorneys are appointed are they or will they be compensated by the tribe?
 - v. Are there alternative structures or institutions available for providing attorneys to represent criminal defendants in tribal courts?
5. Public Comments/Panel Discussion

VI. Important Notes

Information received in response to this Notice of Rulemaking Workshops and Request for Expressions of Interest in Participation in the Rulemaking Workshops may be published or summarized by LSC without acknowledgement of or permission from you or your organization. Furthermore, your responses may be releasable to the public under the LSC's adoption of the Freedom of Information Act (FOIA), 42 U.S.C. 2996d, and the LSC FOIA regulation, 45 CFR part 1619. LSC, at its discretion, may request individual commenters to elaborate on information in their written comments.

Comments sent by any method other than email to PAIRULEMAKING@lsc.gov, or hard copy to Mark Freedman, Senior Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007, or received after the end of the comment period, may not be considered by LSC.

Dated: May 6, 2013.

Atitaya C. Rok,
Staff Attorney.

[FR Doc. 2013-11071 Filed 5-9-13; 8:45 am]

BILLING CODE 7050-01-P

LEGAL SERVICES CORPORATION

45 CFR Part 1614

Restrictions on Legal Assistance With Respect to Criminal Proceedings in Tribal Courts

AGENCY: Legal Services Corporation.

ACTION: Request for information.

SUMMARY: The Legal Services Corporation (LSC) is requesting public comments on issues associated with amending its regulations to align with the statutory authority granted to LSC under the Indian Arts and Crafts Amendment Act of 2010 (the IACAA). The IACAA amended the LSC Act to provide authority for LSC funds to be used by grantees to represent eligible persons in any and all criminal proceedings in tribal courts. Previously, the LSC Act and related regulations permitted representation only in criminal matters involving misdemeanors or lesser offenses in tribal courts. The information received as a result of this request will be considered in rulemaking undertaken by LSC.

DATES: Written comments must be received by August 23, 2013.

ADDRESSES: Written comments must be submitted by mail, fax, or email to

Atitaya Rok at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Atitaya Rok, Staff Attorney, Legal Services Corporation, 3333 K St. NW., Washington, DC 20007; (202) 295-1500 (phone); 202-337-6831 (fax); or lscrulemaking@lsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background Information

A. New Statutory Authorities

The IACAA amended the LSC Act to provide authority for LSC funds to be used by grantees to represent eligible persons in any and all criminal proceedings in tribal courts. Previously, the LSC Act and related regulations in 45 CFR part 1613 permitted representation only in criminal matters involving misdemeanors or lesser offenses in tribal courts.

A subsection of the IACAA, known as the Tribal Law and Order Act of 2010, Public Law 111-211, tit. II, 124 Stat. 2261 (the TLOA), includes new authorizations related to tribal court criminal proceedings. The TLOA increases the maximum jail sentence that any tribal court may impose from one to three years for any single offense. Prior to the TLOA, crimes (felonies, misdemeanors, or less serious offenses) within tribal jurisdiction (those not reserved to federal or state jurisdiction) that could result in jail sentences of more than one year upon successful prosecution were often referred by tribes to federal or state courts because of the tribal courts' inability to impose lengthier sentences.

In order to use this new sentencing authority, tribes must "opt in" and implement affirmative preconditions detailed in the TLOA, including, but not limited to, ensuring that judges in tribal courts have sufficient legal training to preside over criminal proceedings; affording the defendant the right to effective assistance of counsel and, if a defendant is indigent, providing the defendant with a licensed defense attorney at the tribe's expense; publishing the tribal government's criminal laws and rules of evidence and criminal procedure; and creating a system that maintains records of criminal proceedings. Public Law 111-211, tit. II, 124 Stat. at 2280.

In addition to the IACAA and TLOA, the Violence Against Women Reauthorization Act of 2013, Public Law 113-4, 127 Stat. 54 (the 2013 VAWA expands tribal courts' criminal jurisdiction to include crimes of domestic violence and dating violence

committed by non-Indians within a tribal court's jurisdiction.

B. Current LSC Requirements

LSC regulations currently reference the original language of the LSC Act, which explicitly carved out an exception to the general prohibition on the use of LSC funds in criminal proceedings for misdemeanors and lesser offenses in tribal courts: "[a] misdemeanor or lesser offense tried in an Indian tribal court is not a 'criminal proceeding.'" 45 CFR 1613.2.

On November 12, 2012, LSC Management informed grantees via Program Letter 12-3 that all grantees may use LSC funds to assist any eligible person charged with any offense in a criminal proceeding in a tribal court until such time the LSC Board of Directors (LSC Board) made an affirmative decision on the issue.

On January 26, 2013, the LSC Board authorized rulemaking to consider aligning the LSC regulations and the LSC Act. Pursuant to LSC's Rulemaking Protocol, 67 FR 69763 (Nov. 19, 2002), a Rulemaking Options Paper (ROP) is under development. This Request for Information (RFI) is issued to better understand the impact of the IACAA, TLOA, and the 2013 VAWA on grantees that are active in tribal courts.

II. Request for Information

LSC requests information from members of the public with any expertise or experience relating to criminal proceedings in tribal courts, the impact of TLOA or the 2013 VAWA on criminal laws of tribal government, or tribal court appointments of lawyers. Commenters are asked to respond to these general topics of discussion:

1. Do you or your organization currently undertake representations of criminal defendants in tribal courts?

a. If yes, please identify which tribal courts.

b. If no, do you or your organization have a formal or informal policy in place to provide or decline such representations?

c. Are you or your organization aware of any changes in the criminal laws of the tribal government and/or sentencing authority of the tribal courts that have been implemented in accordance with TLOA or the 2013 VAWA?

2. Do you or your organization anticipate undertaking representations of criminal defendants in tribal courts in the future?

a. If yes, please identify which tribal courts.

b. If no, will you or your organization create a formal or informal policy to provide or decline such representations?

3. As a result of the IACAA, TLOA, and the 2013 VAWA, have you or your organization seen an increase in the number of requests for assistance in criminal matters before tribal courts by eligible clients?

a. If yes, please estimate the number of cases and the approximate percentage these cases constitute as a proportion of all requests. Please distinguish, if possible, requests for representation in misdemeanor cases from those for more serious crimes.

b. Please indicate (by percentage estimation, if possible) what the increase is over years prior to 2010, if any.

c. If no, please indicate whether you or your organization anticipate requests for representation in the future.

4. As a result of the IACAA, TLOA, and the 2013 VAWA, have you or your organization increased the number of representations in criminal cases in tribal courts?

a. If yes, please estimate the increase, if any, in the number of representations you or your organization have undertaken in criminal cases in tribal courts since 2010. Please distinguish, if possible, between representations in misdemeanor cases and those for more serious crimes. How does the number of criminal matters in tribal courts compare to the overall number of matters you or your organization has accepted since 2010?

b. If no, please indicate the number of matters you or your organization have undertaken in tribal courts since 2010.

5. As a result of the IACAA, TLOA, and the 2013 VAWA, have you or any staff attorney at your organization been appointed to represent a criminal defendant in tribal court proceedings?

a. If yes, please explain the court appointment process in the tribal court(s) in which the court appointment(s) took place.

b. Are you or your organization concerned about future court appointments in tribal courts? If yes, please indicate why.

6. Is there any additional information you would like to provide to LSC at this time about changes in tribal courts as a result of the TLOA and the 2013 VAWA that may have an impact upon you or your organization and its use of LSC funds?

III. Important Notes

Information received in response to this RFI may be published or summarized by LSC without acknowledgement of or permission by your organization. Furthermore, your responses may be releasable to the public under the LSC's adoption of the

Freedom of Information Act, 42 U.S.C. 2996d(g), and the LSC regulation, 45 CFR part 1619. LSC, in its discretion, may request individual commenters to meet with LSC to elaborate on information in their written comments.

Comments sent by any method other than email to lscrulemaking@lsc.gov, or hard copy to Atitaya Rok, Staff Attorney, Legal Services Corporation, 3333 K St. NW., Washington, DC 20007; to any other address or individual, or received after the end of the comment period, may not be considered by LSC.

Dated: May 6, 2013.

Atitaya C. Rok,

Staff Attorney.

[FR Doc. 2013-11070 Filed 5-9-13; 8:45 am]

BILLING CODE 7050-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 13-867; MB Docket No. 13-102; RM-11696]

Radio Broadcasting Services; Moran, Texas

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Commission requests comment on a petition filed by Katherine Pyeatt ("Petitioner"), proposing to amend the FM Table of Allotments by allotting Channel 281A as a first local aural service at Moran, Texas. Channel 281A can be allotted at Moran, Texas, in compliance with the Commission's minimum distance separation requirements at the following reference coordinates: 32-25-00 NL and 99-08-00 WL. See Supplementary Information *infra*.

DATES: Comments must be filed on or before June 17, 2013 and reply comments must be filed on or before July 2, 2013.

ADDRESSES: You may submit comments, identified by MB Docket No 13-102, by any of the following methods:

- *Federal Communications Commission's Web site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.
- *People with disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432

For detailed instructions for submitting comments and additional information of the rulemaking process, see the **SUPPLEMENTARY INFORMATION** sections of this document. In addition to filing comments with the FCC, interested parties should serve petitioner as follows: Katherine Pyeatt, 215 Cedar Springs Rd., #1605, Dallas, Texas 75201.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418-7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MB Docket No. 13-XX, adopted April 24, 2013, and released April 26, 2013. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY-B402, Washington, DC 20554, (800) 378-3160, or via the company's Web site, www.bcpweb.com. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506 (c)(4).

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.
Federal Communications Commission.
Nazifa Sawez,
Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications



TO: Operations and Regulations Committee

FROM: Atitaya C. Rok, Staff Attorney

SUBJECT: Background on Representation of Criminal Defendants in Tribal Court

DATE: July 8, 2013

The Indian Arts and Crafts Amendment Act of 2010 (the IACAA), amended section 1007(b)(2) of the LSC Act to permit LSC grantees to use LSC funds to represent eligible persons in all criminal proceedings in tribal courts. 42 U.S.C. § 2996f(b)(2) (the LSC Act). Previously, the LSC Act permitted such representation only for misdemeanors or lesser offenses. LSC's current implementing regulation, 45 C.F.R. Part 1613, tracks the previous statutory provision, prohibiting criminal representation in tribal courts unless the representation involved misdemeanors or lesser offenses.

On November 8, 2012, LSC issued a program letter advising grantees of the change in the LSC Act, and, pending Board action to amend LSC's regulations, permitting grantees to use LSC funds to assist eligible persons charged with any offense in a criminal proceeding in tribal court.

On January 26, 2013, the LSC Board authorized a rulemaking to amend 45 C.F.R. Part 1613. On May 10, 2013, LSC published a Request for Information (RFI) in the *Federal Register* at 78 Fed. Reg. 27341. The RFI seeks comments from the public on issues associated with amending LSC's regulations to align with the statutory authority granted under the IACAA.

The RFI poses a number of questions relating to criminal proceedings in tribal courts, the impact of the Tribal Law and Order Act of 2010 (TLOA) and the Violence Against Women Reauthorization Act of 2013 (2013 VAWA) on criminal laws of tribal governments, and tribal court appointments of lawyers. Both the TLOA and the 2013 VAWA provide an "opt in" for tribes who can obtain expanded criminal jurisdiction if the tribes meet prescribed qualifications. LSC's goal is to obtain as much information as possible in order to fully understand the potential impact of the new statutory authorities on LSC's grantees.

A fact-finding panel of tribal law and government experts will convene during the Committee meeting in Denver, Colorado, to discuss the potential impact of the new statutory authorities on representation of indigent persons by LSC's grantees. Upon closure of the RFI comment period on August 23, 2013, the Office of Legal Affairs will develop a Rulemaking Options Paper for the Committee to review at the October meeting.

Background Materials

a. LSC Act

As a result of The Indian Arts and Crafts Amendment Act of 2010, Section 1007(b)(2) of the LSC Act now states:

(b) No funds made available by the Corporation under this title, either by grant or contract, may be used... (2) to provide legal assistance with respect to any criminal proceeding, except to provide assistance to a person charged with *an offense* in an Indian tribal court.” [emphasis added].

Prior to the enactment of The Indian Arts and Crafts Amendment Act, the same section of the LSC Act read:

(b) No funds made available by the Corporation under this title, either by grant or contract, may be used... (2) to provide legal assistance with respect to any criminal proceeding, except to provide assistance to a person charged with *a misdemeanor or lesser offense or its equivalent in an Indian tribal court*” [emphasis added].

The LSC Act provides explicit authority for the Corporation to protect staff attorneys from unreasonable court appointments, Section 1006(d)(6) and 1006(b)(3) of the LSC Act are read in coordination:

Attorneys employed by a recipient shall be appointed to provide legal assistance without reasonable compensation only when such appointment is made pursuant to a statute, rule, or practice applied generally to attorneys practicing in the court where the appointment is made.

42 U.S.C. §2996e(d)(6).

The Corporation shall not, under any provision of this title, interfere with any attorney in carrying out his professional responsibilities to his client as established in the Canons of Ethics and the Code of Professional Responsibility of the American Bar Association (referred to collectively in this title as `professional responsibilities') or abrogate as to attorneys in programs assisted under this title the authority of a State or other jurisdiction to enforce the standards of professional responsibility generally applicable to attorneys in such jurisdiction. The Corporation shall ensure that activities under this

title are carried out in a manner consistent with attorneys' professional responsibilities.

42 U.S.C. § 2996e(b)(3).

b. Regulations

45 CFR § 1613 - RESTRICTIONS ON LEGAL ASSISTANCE WITH RESPECT TO CRIMINAL PROCEEDINGS

§ 1613.1 Purpose.

This part is designed to insure that Corporation funds will not be used to provide legal assistance with respect to criminal proceedings unless such assistance is required as part of an attorney's responsibilities as a member of the bar.

§ 1613.2 Definition.

Criminal proceeding means the adversary judicial process prosecuted by a public officer and initiated by a formal complaint, information, or indictment charging a person with an offense denominated "criminal" by applicable law and punishable by death, imprisonment, or a jail sentence. A misdemeanor or lesser offense tried in an Indian tribal court is not a "criminal proceeding".

§ 1613.3 Prohibition.

Corporation funds shall not be used to provide legal assistance with respect to a criminal proceeding, unless authorized by this part.

§ 1613.4 Authorized representation.

Legal assistance may be provided with respect to a criminal proceeding.

(a) Pursuant to a court appointment made under a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction, if authorized by the recipient after a determination that it is consistent with the recipient's primary responsibility to provide legal assistance to eligible clients in civil matters; or


(b) When professional responsibility requires representation in a criminal proceeding arising out of a transaction with respect to which the client is being, or has been, represented by a recipient.

c. Program Letter 12-3



Legal Services Corporation
America's Partner For Equal Justice

Program Letter 12-3

TO: All Executive Directors
FROM: James J. Sandman, President 
DATE: November 8, 2012
SUBJECT: Criminal Proceedings in Tribal Courts

Congress has amended section 1007(b)(2) of the LSC Act to permit LSC recipients to use LSC funds to represent persons in all criminal proceedings in tribal courts. 42 U.S.C. § 2996f(b)(2). Previously, the LSC Act permitted such representation only for misdemeanors or lesser offenses. The LSC Act was amended as follows:

[LSC funds may not be used] to provide legal assistance with respect to any criminal proceeding, except to provide assistance to a person charged with a ~~misdemeanor or lesser~~ an offense ~~or its equivalent~~ in an Indian tribal court;

Indian Arts and Crafts Amendments Act, Pub. L. 111-211, 124 Stat. 2258, 2282 (July 29, 2010). Section 1010 of the LSC Act and Part 1610 of the LSC regulations apply this prohibition to the use of certain other funds by LSC recipients, including all private funds and any other funds that were not provided for this type of purpose. 42 U.S.C. § 2996i and 45 C.F.R. Part 1610. The amendment applies equally to the use of those other funds.

Part 1613 of the LSC regulations currently uses the original language that “[a] misdemeanor or lesser offense tried in an Indian tribal court is not a ‘criminal proceeding.’” 45 C.F.R. § 1613.2. LSC is commencing a process for the LSC Board to amend Part 1613 to conform to the new statutory language.

Pending board action, LSC Management will apply section 1007(b)(2) of the LSC Act and Part 1613 of LSC’s regulations based on the amended statutory language allowing assistance to persons charged with any offense in a criminal proceeding in a tribal court. LSC grant recipients may include all such cases in their CSR reports.

CIVIL JURISDICTION IN INDIAN COUNTRY BY PARTIES AND SUBJECT MATTER

Notes:

- This chart does not apply to Indian country over which the state has assumed jurisdiction pursuant to Public Law 280, 25 U.S.C.A. § 1322, 28 U.S.C.A. § 1360.¹
- In all instances where state jurisdiction is shown, federal jurisdiction may be acquired if the parties meet requirements of diversity of citizenship and amount.
- Where subject matter of claim particularly affects Indian interests, normal state jurisdiction may be precluded.

General Civil Litigation

Plaintiff	Defendant	Source of Claim	Jurisdiction
Indian	Indian	Indian country	Tribal (exclus.)
		Non-Indian country	Tribal or state (concurr.)
Non-Indian	Indian	Indian country	Tribal (exclus.)
		Non-Indian country	State; possibly tribal (concurr.)
Indian	Non-Indian	Indian country exc. non-Indian fee lands	Tribal (if code allows); State (concurr.)
		Indian country non-Indian fee lands	State; possibly tribal (concurr.)
		Non-Indian country	State (exclus.)
Non-Indian	Non-Indian	Indian country	State; possibly tribal (concurr.)
		Non-Indian country and Indian country fee lands	State (exclus.)

¹ Public Law 280, civil jurisdiction to six states. 28 U.S.C.A. § 1360.

Divorce

Plaintiff	Defendant	Domicile of Parties	Jurisdiction
Indian	Indian	Indian country	Tribal (exclus.)
		Non-Indian country	State; Tribal if code allows (concurr.)
Non-Indian	Indian	Indian country	State (probable); Tribal (concurr.)
		Non-Indian country	State (exclus.)
Indian	Non-Indian	Indian country	Tribal (exclus.)
		Non-Indian country	State (exclus.)
Non-Indian	Non-Indian	Anywhere	State (exclus.)

Adoption and Child Custody (non-Divorce)² (Consult 25 U.S.C.A. § 1911):

Proceeding	Domicile or Residence of child	Jurisdiction
Adoption and all custody	Indian country	Tribal (exclus.)
Adoption or adoptive placement	Non-country	Tribal or State (concurr.)
Foster care or termination of parental rights	Non-Indian country	Tribal preferred; State (concurr.)

Probate

Decedent	Decedent's Domicile	Property	Jurisdiction
Indian	Indian country	Trust assets	Federal (exclus.)
		Land out of Indian country	State (exclus.)
		Movables	Tribal (primary)
	Non-Indian country	Trust assets	Federal (exclus.)
		Land out of Indian country	State (exclus.)
		Movables	State (primary); Possibly Tribal (concurr.)
Non-Indian	Anywhere	All assets	State (exclus.)

² Indian Child Welfare Act of 1978, 25 U.S.C.A. § 1902.

CRIMINAL JURISDICTION IN INDIAN COUNTRY
Prior to Tribal Law and Order Act (TLOA) and Violence Against Women (VAWA) (2013)*

Notes:

- This chart does not reflect federal crimes applicable to all persons in all places, such as theft from the mails or treason.
- This Chart does not apply to Indian country over which the state has taken jurisdiction pursuant to Public Law 280, 18 U.S.C.A. § 1162.¹

Crime by Parties	Jurisdiction	Statutory Authority
a. Crimes by Indians against Indians: i. "Major" crimes. ii. Other crimes.	Federal or tribal (concurrent) Tribal (exclusive)	18 U.S.C.A. § 1153 ²
b. Crimes by Indians against non-Indians: i. "Major" crimes. ii. Other crimes.	Federal or tribal (concurrent) Federal or tribal (concurrent)	18 U.S.C.A. § 1153 18 U.S.C.A. § 1152 ³
c. Crimes by Indians without Victims:	Tribal (exclusive)	
d. Crimes by non-Indians against Indians:	Federal (exclusive)	18 U.S.C.A. § 1152
e. Crimes by non-Indians against non-Indians:	State (exclusive) ⁴	
f. Crimes by non-Indians without Victims:	State (exclusive)	

*Adapted From AMERICAN INDIAN LAW, William C. Canby, Jr. (5th ed., 2009), pp. 199-200, 250-252.

¹ Public Law 280 (1953) transferred federal law enforcement authority to six states (over whole or part of state): Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin.

² Major Crimes act, 18 U.S.C.A. § 1153 (1885), places fifteen major and felony offenses under federal jurisdiction if committed by a Native American against another Native American in Indian country.

³ General Crimes Act, Federal Enclaves Act, 18 U.S.C.A. § 1152 (1817). The Indian Civil Rights Act of 1968 (ICRA), 25 U.S.C.A. § 1301 et seq, requires Tribes to protect criminal defendants' rights similar to those protected by the U.S. Constitution (Bill of Rights). The Tribal Law and Order Act of 2010 (TLOA 2010) and Violence Against Women Reauthorization Act (VAWA 2013) expanded the criminal defendants' rights under the ICRA.

⁴ *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978) (no tribal criminal jurisdiction over non-Indians); see also *United States v. Lara*, 541 U.S. 193, 206 (2004) (holding that the Constitution allows Congress to override "judicially made Indian Law" (quoting *Oliphant*, 435 U.S. at 206) (emphasis added in *Lara*).

Tribal Court Fact-Finding Panel Members

July 22, 2013

Howard Belodoff, Associate Director and Indian Law Unit Director of Idaho Legal Aid Services, Inc.

Howard Belodoff began his career with Idaho Legal Aid Services (ILAS) in Boise, Idaho in 1978 after receiving a Reginald Heber Smith Fellowship. He is currently the Associate Director and Director of Litigation. Mr. Belodoff has also been ILAS's Director of the Indian Law Unit since 1996. ILAS provides services to Idaho's five Indian Reservations.

Mr. Belodoff has specialized in complex trial and appellate cases brought in state and federal court primarily involving civil rights and Indian law. His work has established several case precedents of national significance. He has represented individual tribal members in cases challenging the mismanagement of trust lands that are leased for agricultural and grazing purposes by the Bureau of Indian Affairs (BIA), requiring the BIA to comply with and pay compensation for violations of the Privacy Act in the leasing process, ordering the Secretary of the Interior to implement final regulations for agricultural leases and civil trespass penalties under the American Indian Agricultural Resource Management Act, negotiating fair market rates of compensation and seeking trespass damages from utilities and pipeline companies for the granting of rights of ways across trust land and defending against condemnation of individually owned trust lands.

Mr. Belodoff was named a "2013 Super Lawyer" for the Rocky Mountain Region. He is a current member of the Steering Committee of National Association of Indian Legal Services (NAILS) and has served as the Native American program representative on the National Legal Aid and Defender Association's (NLADA's) Civil Policy Committee.

John Dossett, General Counsel of the National Congress of American Indians

John Dossett graduated with a bachelor's degree in economics from Trinity University and received his J.D. from Lewis and Clark Law School. Mr. Dossett has served as the General Counsel for the National Congress of American Indians since 1997. He represents the Indian tribal governments in Washington D.C. advocating for them in front of Congress and performing regulatory work at the Department of Interior. Mr. Dossett works on a broad range of issues involving land acquisition, labor and tax laws, and gaming and climate change issues.

Mr. Dossett, a native of Pennsylvania, currently resides in Portland, Oregon with his wife and daughter.

Troy Eid, Chair of the Indian Law & Order Commission

Troy A. Eid, the former United States Attorney for the District of Colorado, is a principal shareholder in the Denver office of Greenberg Traurig. He has wide-ranging experience in complex federal, state and tribal litigation at the administrative, trial and appellate court level.

Mr. Eid also handles a wide range of sensitive commercial transactions and disputes that require statutory, regulatory or administrative approval. Recent examples include:

- Spearheading the statutory review and community participation process to enable the successful purchase and sale of major hospitals and medical systems under state law, becoming a 'public face' and spokesperson for the transaction.

- Representing the operators of interstate natural gas pipelines and other energy infrastructure construction projects, coordinating environmental and cultural resource reviews, Native American tribal employment, construction-monitoring, and outreach, and right-of way negotiations on public and private lands.
- Advising public employee pension funds on the proposed privatization of state departments and agencies.
- Negotiating a judicial consent decree, on behalf of a multi-national corporation, to settle the largest environmental enforcement action ever filed by the U.S. government under the storm water provisions of the Clean Water Act.
- Advising tribal governments on achieving the effective compliance of their law enforcement, judicial, and social service systems with applicable federal laws and regulations.
- Counseling various natural resource and environmental remediation clients in complying effectively with federal, state and tribal civil and criminal investigations.

The common thread is a business deal or dispute with many moving parts where Mr. Eid coordinates a diverse team to accomplish a result requiring approval through a public process. His skills running a large public law firm as a U.S. Attorney, and previously as the head of Colorado's 70,000-employee civil service system and as an in-house general counsel in private business, equip him for such interdisciplinary challenges.

Mr. Eid co-chairs the firm's American Indian Law Practice Group, one of the top-rated in the United States by the Chambers USA guide. Chambers features Mr. Eid in both American Indian law and environmental law/natural resources, and he is also listed in Best Lawyers in America.

In addition to his law practice with the firm, Mr. Eid currently serves as the Chairman of the Indian Law and Order Commission, which advises President Obama and the Congress on criminal justice and public safety issues concerning 566 federally recognized Indian tribes and nations throughout the country. Mr. Eid, who was appointed as Colorado's U.S. Attorney by President George W. Bush, was appointed to the Commission by U.S. Senate Majority Leader Harry Reid (D-NV) and unanimously elected Chairman by its members.

Mr. Eid's recent awards include "Lawyer of the Year" by Law Week Colorado (2011), in recognition of his role in the \$1.45 billion sale of the HealthONE hospital system, and "Member of the Year" by the Navajo Nation Bar Association (2012), the largest bar that directly serves an Indian nation. He has also been honored by the Federal Bureau of Investigation, the Drug Enforcement Administration, U.S. Secret Service, the National Congress of American Indians, the U.S. Senate Committee on Indian Affairs, and the U.S. Hispanic Chamber of Commerce.

An Adjunct Professor of Law at the University of Colorado School of Law, Mr. Eid has recently published articles, testified before Congress, and appeared on C-SPAN and elsewhere on a wide range of legal and law enforcement topics, ranging from American Indian law and policy to the regulation of marijuana and narcotics.

Mr. Eid graduated from Stanford University and the University of Chicago Law School, where he was an editor of the Law Review. He clerked for the Honorable Edith H. Jones, Chief Judge of the U.S. Court of Appeals for the Fifth Circuit.

Carole Goldberg, Commissioner of the Indian Law & Order Commission

Carole Goldberg teaches Civil Procedure, Federal Indian Law, Tribal Legal Systems, the Tribal Legal Development Clinic, and the Tribal Appellate Court Clinic at UCLA School of Law. The two clinics render legal services to Indian tribes and Indian judicial systems. In 2006, she served as the Oneida Indian Nation Visiting Professor at Harvard Law School, and in 2007 she was appointed a Justice of the Hualapai Court of Appeals. In 2010, President Barack Obama appointed her to the Indian Law and Order Commission, which is investigating and recommending ways to improve Indian country criminal justice.

Following law school, Professor Goldberg clerked for Judge Robert F. Peckham, U.S. District Court for the Northern District of California. She has twice served as Associate Dean for the School of Law, from 1984 to 1989 and from 1991 to 1992. She has also served as Chair of the Academic Senate in 1993-1994. In 2011, she was appointed Vice Chancellor, Academic Personnel, for the UCLA campus.

Goldberg's recent books include *Defying the Odds: The Tule River Tribe's Struggle for Sovereignty in Three Centuries* (Yale University Press 2010, co-authored with anthropologist Gelya Frank) and *Indian Law Stories* (Foundation Press 2011, co-edited with Kevin Washburn and Philip Frickey). Professor Goldberg has written widely on the subject of federal Indian law and tribal law, and is co-editor and co-author of Cohen's *Handbook of Federal Indian Law* (1982 and 2005 editions), as well as co-author of a casebook, *American Indian Law: Native Nations and the Federal System* (6th ed., 2010). She is currently co-principal investigator of a \$1.5 million grant from the National Institute of Justice to study the administration of criminal justice in Indian country.

Tracy Toulou, Director of the Office of Tribal Justice, U.S. Department of Justice

Tracy Toulou is the Director of the Office of Tribal Justice (OTJ) at the Department of Justice. OTJ is the primary point of contact for the Department of Justice's government to government relationship with Indian tribes. The Office also serves as a source of Indian law expertise for the Department. Prior to his current position, Mr. Toulou served as an Assistant U.S. Attorney for the District of Montana where his duties included tribal outreach and the prosecution of violent crime in Indian country. He began his career with the Department as an attorney in the Criminal Division.

Mr. Toulou attended law school at the University of New Mexico, during which time he had the opportunity to clerk for DNA Legal Services on the Navajo Nation and for the Laguna Pueblo Tribal Court. Before attending law school Mr. Toulou worked for the U.S. Agency for International Development and the U.S. Peace Corps in Africa, Central America and the Caribbean. He is a descendant of the Colville Confederated Tribes located in Washington State.

Rulemaking Options Paper & Draft Rule Part 1626

RULEMAKING OPTIONS PAPER

TO: Operations & Regulations Committee/Board of Directors
FROM: Ronald S. Flagg, Vice President for Legal Affairs and
General Counsel Office of Legal Affairs
DATE: July 8, 2013
SUBJECT: Rulemaking to Amend 45 C.F.R. Part 1626/Alien Eligibility

This Rulemaking Options Paper (“ROP”) has been prepared by the Office of Legal Affairs (“OLA”), after consultation with LSC’s senior management. This ROP is intended to aid the Committee and the Board in the deliberation and decision-making process.

The ROP is organized as follows: a “Summary of Management Recommendation” section; a “Background” section with legal and programmatic context for the issues presented; a “Rulemaking Process Options” section, which sets forth available rulemaking process options; and a “Management Recommendation” section with Management’s recommendations on substance and process. A proposed rule, with preamble, is attached to this ROP.

I. Summary of Management Recommendation

Management makes four recommendations. First, Part 1626 of the LSC regulations, entitled “Restrictions on Legal Assistance to Aliens,” which has not been modified since 1997, should be updated to implement post-1997 statutes that allow recipients to provide legal assistance to certain groups of aliens beyond those identified as eligible in the current regulation. Second, a technical amendment should be made to a provision of the regulation establishing eligibility for persons granted withholding of removal from the U.S. in immigration proceedings to reflect relocation and amendment of the statutory withholding provision. Third, the appendix to the regulation, which lists examples of documents acceptable to establish eligibility for assistance and has not been revised since 2003, should be updated and removed from the regulation and issued as a program letter. This would allow for less burdensome modification in the future. The appendix does not have to be issued as part of the rule because it does not create or alter

obligations for recipients. Fourth, the amendments should be accomplished by notice and comment rulemaking.

II. Background

45 C.F.R. Part 1626 is “designed to ensure that recipients provide legal assistance only to citizens of the United States and eligible aliens.”¹ 45 C.F.R. § 1626.1. Part 1626 consists of twelve substantive sections and an appendix that lists examples of documents acceptable to establish alien eligibility. 45 C.F.R. Part 1626; Appendix.

Part 1626 implements Section 504(a)(11) of the 1996 LSC appropriation, as modified and annually reincorporated in LSC’s appropriation, which prohibits the Corporation from providing funds to any person or entity (“recipient”) that provides legal assistance to ineligible aliens. Pub. L. 104-134, Title V, § 504(a)(11) 110 Stat. 1321, 1321-54 (1996). The statutory restriction on alien eligibility as initially enacted in the 1996 appropriations permitted assistance to six categories of aliens, most of whom have been granted immigration status and are lawfully present in the United States. *Id.* LSC adopted an interim rule to implement these statutory requirements. Restrictions on Legal Assistance to Aliens, 61 Fed. Reg. 45750 (August 29, 1996).

In 1997, while the interim rule was pending for comment, Congress expanded eligibility to aliens who have been battered or subjected to extreme cruelty in the United States by family members. Pub. L. 104-208, Div. A, Title V, § 502(a)(2)(C), 110 Stat. 3009, 3009-60, (1997) (FY 1997 LSC appropriation). The FY 1997 amendment, sometimes referred to as “the Kennedy Amendment,” required a recipient to use non-LSC funds for such assistance. *Id.* The Kennedy Amendment permitted recipients to provide “related legal assistance” to the categories of aliens to whom eligibility was extended, and defined “related legal assistance” as “legal assistance directly related to the prevention of, or obtaining of relief from, the battery or cruelty described in such subsection.” *Id.*

In 1997, LSC replaced Part 1626 with a new regulation that restated parts of the interim rule and implemented the Kennedy Amendment that expanded

¹ During the April 14, 2013 Operations and Regulations Committee open session, a question was raised about the use of the term “aliens.” To the extent that the statutes implemented by Part 1626 use the term aliens in identifying persons who are eligible for assistance, it is necessary that the regulation use this term as well.

eligibility and defined the “related legal assistance” that the statute authorized for eligible aliens under these amendments. 62 Fed. Reg. 19409 (April 21, 1997); 62 Fed. Reg. 45755 (August 29, 1997). The substantive provisions in Part 1626 have not been changed since 1997. Congress repeated the Kennedy Amendment in the FY 1998 LSC appropriation and has annually reincorporated it by reference thereafter. Pub. L. 105-119, Title V, § 502(a)(2)(C), 111 Stat. 2440, 2511, (1997) incorporated by Pub. L. 113-6, Div. B, Title IV, 127 Stat. 198, 268, (2013) (LSC FY 2013 appropriation).

In 2003, LSC added an appendix to Part 1626 that lists examples of documents acceptable to establish eligibility for assistance. 68 Fed. Reg. 55540 (Sept. 26, 2003). The appendix has not been changed since 2003.

Since the existing Part 1626 was adopted in 1997, Congress has expanded the eligibility of aliens for legal assistance from LSC grant recipients through the Trafficking Victims Protection Act of 2000 (“TVPA”), Pub. L. 106-386, §§ 107(b) and (e), 114 Stat. 1464, 1475, and 1477 (2000), as amended in 2003 by the Trafficking Victim Protection Reauthorization Act (“TVPRA”), Pub. L. 108-193, § 4, 117 Stat. 2875, 2877 (2003) codified at 22 U.S.C. § 7105 and 8 U.S.C. § 1101 ; the Violence Against Women and Department of Justice Reauthorization Act of 2005 (“VAWA”), Pub. L. 109-162, § 104, 119 Stat. 2960, 2978 (2006). In addition, the FY 2008 LSC appropriation expanded eligibility to forestry workers admitted or permitted to remain in the United States as H-2b workers under the Immigration and Nationality Act. Pub. L. 110-161, Div. B, Title V, § 540, 121 Stat. 1844, 1924 (2007). However, these statutory expansions of eligibility are not reflected in Part 1626. During its April 19, 2013, meeting, the Board of Directors approved the Operations and Regulations Committee recommendation to initiate rulemaking to amend Part 1626 to conform with statutory authorizations on assistance to aliens.

The statutes referred to in the preceding paragraph expand eligibility in the ways described below.

A. TVPA, TVPRA and VAWA Amendments

The TVPA as amended by the TVPRA in 2003 provides that the Legal Services Corporation “shall expand benefits and services to victims of severe forms of trafficking in persons in the United States, and aliens classified as a nonimmigrant under section 1101(a)(15)(T)(ii) of title 8,

without regard to the immigration status of such victims.” 22 U.S.C. § 7105(b)(1)(B).

The VAWA 2006 Amendments changed the language of the LSC FY 1998 appropriation restricting recipients from representing aliens as follows with additions underlined and deletions struck out:

[S]ubsection (a)(11) of such section 504 [of LSC’s FY 1996 appropriations act incorporated by reference] shall not be construed to prohibit a recipient from ~~using funds derived from a source other than the Corporation to provide~~ providing related legal assistance to—

(i) an alien who has been battered or subjected to extreme cruelty ~~in the United States by a spouse or a parent, or by a member of the spouse’s or parent’s family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty; or~~ or a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)); or

(ii) an alien whose child ~~has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse’s or parent’s family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty.~~ without the active participation of the alien, has been battered or subjected to extreme cruelty or a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)).

(b) DEFINITIONS— For purposes of subsection (a)(2)(C):

(1) The term ‘battered or subjected to extreme cruelty’ has the meaning given such term under regulations issued pursuant to subtitle

G of the Violence Against Women Act of 1994 (Public Law 103—322; 108 Stat. 1953).

(2) The term ‘related legal assistance’ means legal assistance directly related to the prevention of, or obtaining of relief from, the battery or cruelty, sexual assault or trafficking, or the crimes listed in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)(iii). ~~described in such subsection.~~

Pub. L. 105-119, Title V, § 502(a)(2)(C), as amended by VAWA, Pub. L. 109-162, § 104.

The current LSC regulatory provision establishing eligibility for assistance for aliens who are victims of abuse, section 1626.4, was last amended in 1997. This provision does not reflect the following TVPRA and VAWA changes in the law under the present appropriations act:

1. The appropriations act amendments add the following categories of otherwise ineligible aliens to whom recipients may provide “related legal assistance:” (a) victims of sexual assault or trafficking in the United States, and (b) persons eligible for immigration relief under section 101(a)(15)(U) of the Immigration and Nationality Act. This latter category, sometimes referred to as “Section U” or “U visa” status, includes eligibility for victims of enumerated crimes, as well as for persons accompanying or following such victims and persons with information regarding such crimes who can assist in investigation and prosecution. Previously, only victims of battery or extreme cruelty by family members in the United States were eligible, and the current regulation reflects this prior, superseded description of eligible aliens.
2. The appropriations act amendments expand the currently recognized category of eligible aliens under the regulation, *i.e.*, aliens who are battered or subjected to extreme cruelty, in two ways that are not reflected in the regulation. First, prior to the amendments, it was required that the abuse occur in the United States, while now some victims of abuse are eligible regardless of where the abuse takes place.² Second, the amendments allow recipients to provide “related

² The categories differ with regard to the effect the location of abuse has on eligibility for assistance. Victims who are battered or subjected to extreme cruelty are eligible for assistance regardless of where abuse took place, while victims of trafficking must be subject to abuse in the United States in order to be

legal assistance” to this category of abused aliens regardless of who abused them. Previously, only aliens abused by a parent, spouse or household member were eligible, and the current regulation reflects this prior, superseded, limitation.

3. The appropriations act amendments permit recipients to use both LSC funds and non-LSC funds to provide “related legal assistance” to otherwise ineligible aliens. Previously, such assistance was permitted only if supported by non-LSC funds, and the current regulation reflects this prior, superseded restriction.

The assistance permitted to otherwise ineligible aliens under section 502(a)(2)(C) of the current appropriation act is “related legal assistance,” which is defined as “legal assistance directly related to the prevention of, or obtaining relief from, the battery, cruelty, sexual assault or trafficking, or the crimes listed in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act.” Pub. L. 105-119, § 502(b)(2). LSC has interpreted the “related legal assistance” limitation as permitting assistance on a range of issues, provided the recipient can show a connection to an abusive situation, including representation on immigration status, naturalization, work authorization, domestic matters, employment, public benefits and housing. Restrictions on Legal Assistance to Aliens, 62 Fed. Reg. 45757 (August 29, 1997). The regulatory definition of “related legal assistance” should be updated to incorporate LSC’s interpretation of that term in Program Letter 06-2 and thus clarify for recipients the scope of assistance they are permitted to provide.

B. H2 Visa Holders-- Forestry Workers and Agricultural Workers - Consolidated Appropriations Act, 2008

The INA statutory “H-2” provision, 8 U.S.C. § 1101(a)(15)(h)(ii), establishes two categories of admissible non-immigrant workers in the United States temporarily: 1) agricultural workers, 8 U.S.C. §1101(a)(15)(h)(ii)(a) (“H-2a workers”), and 2) a more generalized category of workers “coming temporarily to the United States to perform other

eligible for assistance. Pub. L. 105-119, Title V, § 502(a)(2)(C), as amended by VAWA, Pub. L. 109-162, § 104. For the category of aliens who qualify for U visa relief as the result of criminal abuse, the criminal activity giving rise to eligibility must have “violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States.” 8 U.S.C. § 1101 (a)(15)(U)(i)(IV).

temporary service or labor.” 8 U.S.C. § 1101(a)(15)(h)(ii)(b) (“H-2b workers”).

The LSC appropriation’s provision on eligibility for H-2 workers, as amended by the FY 2008 LSC appropriation, is section 504(a)(11)(E), which states that assistance may be provided to

nonimmigrant worker[s] admitted to, or permitted to remain in the United States under section 101 (a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. § 1101(a)(15)(H)(ii)(b)) for forestry labor or . . . alien[s] to whom section 305 of the Immigration and Reform Act of 1986 (8 U.S.C. 1101 note) applies, but only to the extent the legal assistance provided is the legal assistance described in such section.

Pub. L. 104-134, Title V, § 504(a)(11)(E), as amended, Pub. L. 110-161, Div. B, Title V, § 540. Section 305 is discussed below.

Section 1626.11, as currently in effect, establishes eligibility for H-2 agricultural workers and reads as follows:

§ 1626.11 H-2 agricultural workers

- (a) Nonimmigrant agricultural workers admitted under the provisions of 8 U.S.C § 1101(a)(15)(h)(ii), commonly called H-2 workers, may be provided legal assistance regarding the matters specified in paragraph (b) of this section.
- (b) The following matters which arise under the provisions of the workers specific employment contract may be the subject of legal assistance by an LSC-funded program:
 - (1) Wages;
 - (2) Housing;
 - (3) Transportation; and
 - (4) Other employment rights as provided in the worker’s specific contract under which the nonimmigrant worker was admitted.

45 C.F.R. § 1626.11.

Section 1626.11 requires amendment for two reasons. First, the provision does not state with precision the limited eligibility of H-2a agricultural workers and could be interpreted as extending eligibility beyond the statutory limit to a broader group of H-2 workers. Second, the provision should be updated to reflect that eligibility for assistance has been extended by the FY 2008 appropriation amendment for H-2b forestry workers.

As to the imprecision with the regulation's statement of H-2a eligibility, the statutory basis for LSC recipients to assist H-2a agricultural workers is Section 305 of the Immigration Reform and Control Act of 1986 ("IRCA"). 8 U.S.C. 1101, note. This provision states

A nonimmigrant worker admitted to or permitted to remain in the United States under section 101 (a)(15)(H)(ii)(a) of the Immigration and Naturalization Act (8 U.S.C. § 1101 (a)(15)(H)(ii)(a)) for agricultural labor or service shall be considered to be an alien . . . for purposes of establishing eligibility for legal assistance under the Legal Services Corporation Act . . . but only with respect to legal assistance on matters related to wages, housing, transportation, and other employment rights as provided in the worker's specific contract under which the nonimmigrant was admitted.

Id.

Section 1626.11 states that "[n]onimmigrant agricultural workers admitted under the provisions of 8 U.S.C. 1101(a)(15)(h)(ii), commonly called H-2 workers, may be provided legal assistance" as provided in that section. 45 C.F.R. § 1626.11(a). This 1626 provision refers broadly to "H-2" agricultural workers and not specifically to the "H-2a" workers eligible under Section 305 of IRCA and Section 101 (a)(15)(H)(ii)(a) of the INA. This language could lead to confusion since H-2 covers a broader class of workers than H-2a. In order to identify the agricultural worker eligibility with precision, Section 1626.11 should be amended to specifically state that the workers eligible are those under Section 101(a)(15)(H)(ii)(a) of the INA.

Section 1626.11 should also be amended because it does not include the eligibility for H-2b forestry workers established by the FY 2008 LSC appropriation that amended Section 504(a)(11)(E) of the LSC appropriation

act to render forestry workers holding H-2b visas eligible for legal assistance from LSC grantees through addition of the italicized language:

[A] non-immigrant worker admitted to, or permitted to remain in, the United States under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1109(a)(15)(H)(ii)(b)) for forestry labor or an alien to whom section 305 of the Immigration Reform and Control Act [“IRCA”] of 1986 (8 U.S.C. 1101 note) applies, but only to the extent that the legal assistance provided is the legal assistance described in such section.

Pub. L. 104-134, Title V, § 504(a)(11)(E) as amended in 2008 by Pub. L. 110-161, Div. B, Title V, § 540 (emphasis added). The amendment to section 504(a)(11)(E) is expressly limited to H-2b visa holders who are forestry workers. Forestry workers are only a subsection of H-2b visa holders, and H-2b visa holders who are not working in the forestry industry remain ineligible for legal assistance from LSC grantee programs.

Further, section 1626.11 should conform to the amended language in section 504(a)(11)(E), which refers both to the section H-2b forestry workers and to the Section 305 workers, and states that such workers are eligible “only to the extent that the legal assistance provided is the legal assistance described in such section.” *Id.* We believe the most logical construction of this is to apply the Section 305 limits to the H-2b forestry workers as well as the H-2a/Section 305 workers.

C. Changes in Statutory Eligibility for Aliens Granted Withholding of Removal

Section 1626.5 of the regulation allows recipients to provide assistance to several categories of aliens who are lawfully present or admitted to the United States. 45 C.F.R. § 1626.5. One category eligible under this section is “alien[s] who [are] lawfully present in the United States as a result of the Attorney General’s withholding of deportation pursuant to section 243(h) of the INA (8 U.S.C. § 1253(h)).” 45 C.F.R. § 1626.5(e).

The withholding provision has been relocated to another section of the INA, and is now codified at 8 U.S.C. § 1231(b)(3). The regulation should be amended to correctly identify the citation to the statutory basis for withholding.

D. Amending the Appendix and Reissuing as a Program Letter

Section 1626.7 currently requires that LSC publish an appendix to Part 1626 that provides examples of documents that are acceptable for establishing proof of eligibility for assistance. 45 C.F.R. Part 1626.7(a)(1)

The appendix to Part 1626 was last updated in 2003, and, like the regulation, it is out of date. Revision of the list of eligibility documents in the appendix does not entail policy decisions or rights of grantees, as it is limited to administrative updates to the list of examples of documents or information for demonstrating eligibility. In view of the frequency with which immigration forms change, and the ministerial nature of those changes, subjecting eligibility list updates to the process of repeated Board approval and the LSC rulemaking protocol would be unnecessarily complicated. LSC would be well served by limiting the administrative burden in making ministerial updates to the list. LSC can do so by classifying the information currently contained in the appendix as a program letter posted on the LSC website, and emailed to grant recipients.

The initial revision of the appendix and reclassification as a program letter would be done pursuant to the LSC rulemaking protocol, which requires Board review and approval prior to publication for notice and comment. Legal Services Corporation Rulemaking Protocol, Fed. Reg. 69762 (November 19, 2002). This is necessary because these changes modify an existing regulation. However, subsequent revision of the guidelines would allow for, but not require, notice and comment and Board consideration and approval (though LSC could submit subsequent revisions to the Board and to the public for comment).

III. Rulemaking Process Options

As to the substantive amendments in Part 1626, the options are to proceed under (a) notice and comment rulemaking without workshops, (b) notice and comment rulemaking with workshops, or (c) negotiated rulemaking. As to the amendments of the appendix, the options are to (a) retain the appendix as part of the regulation, which would require action by the board, publication, and a notice and comment period prior to each future updated appendix under the Rulemaking Protocol, or (b) to publish the information in the

appendix in a program letter that would not be subject to the Rulemaking Protocol, but could still be published for notice and comment at LSC's discretion. The last process question is what length of time to provide for notice and comment before the rule becomes final.

IV. Management Recommendations

A. Substance

Section 1626.4.

Management recommends that section 1626.4 be replaced by a new provision that conforms to the current statutory language in the TVPA, TVPRA, VAWA and the FY 2008 LSC appropriation. The language of the new provision would accomplish the following:

1. Add to the existing categories of eligible aliens (1) victims of sexual assault or trafficking in the United States and (2) persons who qualify for immigration relief under section 101(a)(15)(U) of the Immigration and Nationality Act.
2. Remove restrictions that limit eligibility to victims who are battered or subjected to extreme cruelty based on the identity of the abuser and the location of the abuse in the United States.
3. Permit recipients to use LSC funds and non-LSC funds to provide allowable legal assistance to all categories of eligible aliens.
4. Clarify the definition of related legal assistance that may be provided to the categories of aliens eligible under section 1626.4.

Section 1626.11

Section 1626.11 should be replaced by a new provision that conforms to the amended language in section 504(a)(11)(E) of the annual LSC appropriations riders. The language of the new provision would accomplish the following:

1. State that H-2b forestry laborers are eligible for legal assistance.
2. Precisely identify the eligibility of H-2a agricultural workers for assistance by referencing section H-2a rather than section H-2 of the INA.

Section 1626.5

Section 1626.5(e) should be amended to reflect that the withholding of removal status upon which this eligibility is based has been relocated to a different section of the INA, 8 U.S.C. § 1231(b)(3).

Appendix

The appendix to 1626 should be updated and published as a program letter.

B. Process

The amendments to the substantive sections of Part 1626 should be developed and considered by the Board as required under LSC's Rulemaking Protocol and considered through notice and comment rulemaking (without workshops) as required by the LSC Act. The decision to remove the appendix from the regulation and reclassify the appendix as a program letter is a change in the regulation. Accordingly, the initial decision to update the appendix and reclassify it should also be subject to notice and comment. Subsequent administrative updates to the program letter would not be required for submission to notice and comment or to Board consideration and approval under the LSC Rulemaking Protocol, although notice and comment and/or Board consideration would be permitted.

On timing, OLA recommends a sixty-day period for notice and comment for the proposed rule. This allows consideration of issues related to the implementation of the statutory expansion of eligibility in the new regulation.

45 CFR Part 1626

Restrictions on Legal Assistance to Aliens

AGENCY: Legal Services Corporation

ACTION: Notice of proposed rulemaking with request for comments

SUMMARY: This proposed rule updates the Legal Services Corporation (“LSC” or “Corporation”) regulation on legal assistance to aliens, 45 C.F.R. Part 1626 (“the existing regulation”). The revisions are intended to implement three statutory changes on aliens eligible for legal assistance from LSC grant recipients that have been enacted since the pertinent provisions of the existing regulation were last revised in 1997.

The first proposed change would update the definition of aliens eligible for legal assistance under anti-abuse statutes. In the existing regulation, this definition appears in Section 1626.4, which in turn implements Section 502(a)(2)(C) of the FY 1997 LSC appropriation. Pub. L. 104-208, 110 Stat. 3009 as repeated in FY 1998 and incorporated by reference in LSC’s annual appropriations thereafter, Pub. L. 113-6, 127 Stat. 198 (2013) incorporating by reference FY 1998 appropriations. Since the last revision of the regulation in 1997, Section 502(a)(2)(C) has been amended by anti-abuse statutes to expand the definition of eligible aliens. The anti-abuse statutes, ~~which amended Section 502(a)(2)(C)~~, are the Trafficking Victims Protection Act of 2000 (“TVPA”), the Trafficking Victims Protection Reauthorization Act of 2003 (“TVPRA”), and the Violence Against Women and Department of Justice Reauthorization Act of 2005 (“VAWA”). These statutes permit LSC recipients to provide assistance to aliens who are direct victims of abuse and to other covered aliens who are not direct victims, such as family members and persons who may assist in law enforcement efforts. TVPA and TVPRA create trafficking exceptions to the alienage prohibitions. VAWA amends Section 502.

The amended text of Section 502 is not codified. The pertinent portions read as follows:

SEC. 502(a)(2)(C). Subsection (a)(11) of such Section 504 [of Public Law 104-134, the FY 1996 LSC appropriation] [prohibiting assistance to aliens] shall not be construed to prohibit a recipient from providing legal assistance to—

- (i) an alien who has been battered or subjected to extreme cruelty or a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)); or
- (ii) an alien whose child, without the active participation of the alien, has been battered or subject to extreme cruelty or a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section

101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)).

SEC. 502(b). DEFINITIONS—For purposes of subsection (a)(2)(C):

- (1) The term “battered or subjected to extreme cruelty” has the meaning given such term under regulations issued pursuant to subtitle G of the Violence Against Women Act of 1994 (Public Law 103-322; 108 Stat. 1953).
- (2) The term “related legal assistance” means legal assistance directly related to the prevention of, or obtaining relief from, the battery or cruelty, sexual assault or trafficking, or the crimes listed in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)(iii)).

The second proposed rule change would implement the FY 2008 LSC appropriation expansion of eligibility for legal assistance to include alien forestry workers admitted to the United States as temporary workers under the H-2(b) program of the Immigration and Nationality Act (“INA”).

The third proposed rule change is technical. The statutory basis for an existing category of eligible aliens under the regulation, persons granted withholding of removal from the U.S., has been relocated to a new section of the INA.

The proposed rule also updates the definition of “related legal services” that may be provided to aliens because of abuse and related crimes to conform with statutory authority and previous LSC interpretations.

The existing regulation includes an appendix that lists examples of documents acceptable to establish the eligibility of aliens for legal assistance from LSC grant recipients. The proposed rule would modify the appendix in three respects. First, the Corporation proposes to move the list of example documents from an appendix to the alienage regulation to a program letter because updating the example documents as immigration forms change is a ministerial function that does not alter the substance of the regulation. Second, the list is updated to include documentation that would establish eligibility for the categories of eligible aliens added in the proposed rule. Third, the list has been updated to include new eligibility documents for aliens covered under the existing regulation.

DATE: Comments must be submitted by 60 days after publication of this Notice in the Federal Register.

ADDRESSES: Written comments submitted to LSC must be in .pdf format (if submitted electronically) and sent to 1626rulemaking@lsc.gov. If submitted via facsimile, or in hard copy, please address the comments to Mark Freedman, Legal Services Corporation, 3333 K St NW, Washington, DC 20007; (202) 337-6519 (fax). Written comments sent by any other means, or received after the end of the comment period, may not be considered by LSC.

FOR FURTHER INFORMATION CONTACT: Mark Freedman [\[insert address\]](#).

SUPPLEMENTARY INFORMATION: LSC’s current appropriations restrictions were enacted in 1996 and have been reincorporated annually with amendments. Section 504(a)(11) of the LSC appropriations legislation prohibits the Corporation from providing funds to any person or entity (“recipient”) that provides legal assistance to ineligible aliens, subject to statutory exceptions. Pub. L. 104-134, Title V, § 504(a)(11), 110 Stat. 1321, 1321-54 (1996).

After the alienage restrictions were enacted in 1996, LSC adopted an interim rule to implement these statutory requirements. 61 Fed. Reg. 45750 (August 29, 1996). While this rule was pending for comment, Congress passed the Kennedy Amendment, which expanded eligibility for LSC recipients to use non-LSC funds to provide related-funded assistance to aliens who have been battered or subjected to extreme cruelty in the United States by family members ~~and permitted recipients to use non-LSC funds for such assistance~~. Pub. L. 104-208, Div. A, Title V, § 502(a)(2)(C), 110 Stat. 3009, 3009-60 (1996). The Kennedy Amendment was repeated in the FY 1998 modification of the LSC appropriation’s restrictions. Thereafter, LSC’s annual appropriations have incorporated the FY 1998 restrictions by reference. Pub. L. 105-119, Title V, § 502(a)(2)(C), 111 Stat. 2440, 2511, (1997) incorporated by Pub. L. 113-6, Div. B, Title IV, 127 Stat. 198, 268, (2013) (LSC FY 2013 appropriation).

In 1997, LSC revised Part 1626 to implement the Kennedy Amendment. 62 Fed. Reg. 19409 (April 21, 1997), as amended, 62 Fed. Reg. 45755 (August 29, 1997). The substantive provisions in Part 1626 have not been changed since 1997. In 2003, LSC added a list of documents establishing the eligibility of aliens for legal assistance from LSC grant recipients as an appendix to Part 1626. 68 Fed. Reg. 55540 (Sept. 26, 2003). The appendix has not been changed since 2003.

The TVPA and TVPRA require that LSC and Federal agencies “shall expand benefits and services to victims of severe forms of trafficking in persons in the United States, and aliens classified as a nonimmigrant under section 1101 (a)(15)(T)(ii) of title 8 [family members of trafficking victims], without regard to the immigration status of such victims. 22 U.S.C. 7105 codifying ~~In 2000, the TVPA permitted LSC recipients to extend assistance to persons subject to severe forms of trafficking prohibited under the TVPA. Pub. L. 106-386, §§ 107(b) and (e), 114 Stat. 1464, 1475, and 1477 (2000) and .—The definitions of severe forms of trafficking from the TVPA were included in the 2003 TVPRA.~~ Pub. L. 108-193, § 4, 117 Stat. 2875, 2877 (2003). In 2006, VAWA amended the LSC alienage eligibility provision in Section 502(a)(2)(C) to expand the categories of aliens to whom recipients may provide related assistance by adding aliens who 1) are victims of sexual assault or trafficking in the United States or 2) qualify for “U” visas under section 101(a)(15)(U) of the INA. Pub. L. 105-119, Title V, § 502(a)(2)(C), as amended by Pub. L. 109-162, § 104, 119 Stat. 2960, 2978 (2006). The U visa provision of the INA allows aliens to remain in the United States for a limited period who are victims of a variety of abuse crimes, who may assist in law enforcement related to such crimes, or who are family members of victims. 8 U.S.C. § 1101(a)(15)(U). The VAWA amendments in 2006 incorporated the TVPA and TVPRA provisions.

The two major changes resulting from the VAWA amendment of the LSC appropriations were that 1) LSC recipients are permitted to provide assistance to previously ineligible aliens who are entitled to remain in the U.S. under the anti-abuse statutes and 2) recipients may use LSC funds to assist these aliens.

LSC issued two program letters to provide guidance to recipients on implementing the TVPA, TVPRA and VAWA eligibility changes. Program Letter 05-2 (October 6, 2005) (addressing TVPA and TVPRA); Program Letter 06-2 (February 21, 2006) (addressing VAWA). However, the existing regulation has not been updated to include the extension of eligibility under the anti-abuse statutes.

In addition to the changes resulting from the anti-abuse statutes, the FY 2008 LSC appropriation amended section 504(a)(11) to extend eligibility for assistance from recipients to forestry workers admitted to the U.S. under the H-2b temporary worker provisions in section 101(a)(15)(H)(ii)(b) of the INA. Pub. L. 104-134, § 504(a)(11)(E), as amended, Pub. L. 110-161, Div. B, Title V, § 540, 121 Stat. 1844, 1924 (2007). Section 1626.11 of the LSC alienage regulation establishes eligibility for H-2a agricultural temporary workers, but has not been amended to implement the statutory extension of eligibility to forestry workers.

On April 14, 2013, the Operations and Regulations Committee (“the Committee”) of the LSC Board of Directors (“the Board”) recommended that the Board authorize rulemaking to conform Part 1626 to statutory authorizations. On April 16, 2013, the Board authorized the initiation of rulemaking.

Pursuant to the LSC Rulemaking Protocol, LSC staff prepared a proposed rule amending Part 1626 with an explanatory rulemaking options paper. On July [DATE], 2013 the Committee recommended that the Board approve the proposed rule for notice and comment rulemaking. On July [DATE], 2013, the Board approved the proposed rule for publication in the Federal Register for notice and comment. A section by section discussion of the proposed rule is provided below.

Authority

Citations to the TVPA, TVPRA, VAWA, the FY 2006 Appropriations Act, and the FY 2008 Appropriations Act are added.

Section 1626.1 Purpose

No revisions have been made to this section.

Section 1626.2 Definitions

Subsections (b) and (c) have been changed to add references to section 1626.4 to the definitions of “eligible alien” and “ineligible alien.” This revision, along with others discussed subsequently, reflects a change in how the two subsections on alien eligibility, 1626.4 and 1626.5, are described in the proposed rule. In the existing regulation, aliens eligible under anti-abuse statutes (1626.4) are described as persons

to whom alienage restrictions do not apply, and aliens eligible because of immigration status (1626.5) are described as eligible aliens. In the proposed rule, both 1626.4 and 1626.5 are described as establishing categories of aliens who are eligible for assistance. The Corporation believes that this adds clarity to the rule's identification of aliens who may be assisted by recipients.

Subsection (d) has been revised to identify the Department of Homeland Security as the governmental entity that makes status adjustment determinations in place of the Immigration and Naturalization Service.

Subsection (f) of the existing regulation, the definition of persons "battered or subjected to extreme cruelty", has been moved to section 1626.4(c)(1). Subsection (g) of the existing regulation, the definition of "[l]egal assistance directly related to the prevention of, or obtaining relief from, the battery or cruelty" has been moved to section 1626.4(b) and renamed with substantive revisions that are explained in the discussion of that section.

These moves are part of the proposed rule's consolidation of all terms exclusive to eligibility under anti-abuse statutes to section 1626.4. Existing definitions which apply to section 1626.4 and new definitions added in the interim rule appear in that section as revised. A new subsection (f) is added that defines the term "anti-abuse statutes," which is used to collectively describe the statutes that expand eligibility.

Section 1626.3 Prohibition

Technical revisions have been made to this section.

Section 1626.4 Aliens eligible for assistance under anti-abuse laws

This section is substantially rewritten to incorporate alien eligibility expansion under the TPVA, TPVRA, VAWA, and resulting amendments of the LSC restrictions. The title of this section and of section 1626.5 have been revised to clearly state that these two sections of Part 1626 establish the two major categories of eligible aliens who are excepted from the restrictions on assistance—(1) aliens who are eligible for assistance under anti-abuse laws (covered in section 1626.4) and aliens eligible for assistance based on immigration status (covered in section 1626.5).

Subsection (a) of this provision has been rewritten to incorporate into the regulation 1) the current language of Section 502(a)(2)(C) of the appropriations restrictions, which contains the VAWA amendments expanding alien eligibility, and 2) the language of 22 U.S.C § 7105(b)(1)(B) implementing TPVA and TPVRA. The introductory clause before sentence in subsection (a)(1) tracks that of section 1626.5. As is the case with the new titles, this is intended to clearly reflect that the two sections establish two distinct categories of aliens who are eligible for assistance.

Subsection (a) allows recipients to assist aliens eligible under the anti-abuse statutes with any funds, including LSC funds, as permitted by those statutes under the VAWA amendment to the LSC appropriations. This replaces the superseded funding limitation

in the existing section 1626.4, which requires that recipients use non-LSC funds to assist clients eligible under this provision.

Subsections (a)(1) ~~and (a)(2)~~ in the proposed rule adopt^s language identifying eligible aliens from the VAWA amendment to Section 502(a)(2)(C) of the appropriations restrictions. Persons “battered and subject to extreme cruelty” are eligible under the existing 1626 language, which adopts the definition of that term from immigration regulations implementing the 1994 VAWA. See 8 C.F.R. § 204.2(c)(1)(vi); 8 C.F.R. § 216.5(e); 8 C.F.R. § 1216.5(c)(3)(i). The proposed rule implements two changes from the VAWA amendment. First, the proposed rule eliminates the existing, but superseded, regulatory requirement that the battering or cruelty take place in the United States, a territorial restriction which has been eliminated by the VAWA amendment. Second, the proposed amendment implements statutory language eliminating the existing superseded regulatory requirement that persons be battered or subjected to extreme cruelty by a family or a household member.

The proposed changes in subsections (a)(1) ~~and (a)(2)~~ also implement^s the VAWA amendment language adding two new groups of eligible aliens: (1) victims of sexual assault or trafficking in the United States and (2) persons qualified for “U visa” relief under section 101(a)(15)(U) of the INA. The existing limitation that only “related legal assistance” can be provided is retained in the VAWA amendment and the regulation.

Subsection (a)(2) adds language implementing 22 U.S.C. § 7105 (codifying provisions of the TVPA and TVPRA), which requires that LSC expand all services to “victims of severe forms of trafficking in the United States” as well as to some relatives of such victims. Unlike the VAWA provision, the TVPA and TVPRA do not limit recipients to providing “related legal assistance.”

Subsection (b) is a relocated and provides a revised definition of “related legal assistance” that may be provided to VAWA-eligible aliens under section 502(b)(2) of the Appropriations Act. The VAWA amendment limits assistance to aliens ~~under the anti-abuse statute~~ to “related legal assistance.” The definition of such assistance is relocated from the general definition subsection, 1626.2, into the subsection establishing eligibility for aliens under the anti-abuse statutes, 1626.4, because the definition applies only to VAWA-~~aliens~~-eligible aliens under the anti-abuse laws covered by 1626.4.

The substance of the definition of related legal assistance is changed to use the same term for assistance, “related legal assistance,” as used in the VAWA amendment to the LSC appropriations. Subsections (1), (2), and (3) of the definition link the assistance to the three categories of aliens eligible under the anti-abuse laws, including the categories added by VAWA and included in the interim rule.

The closing paragraph of the definition of “related legal assistance,” following the three subsections, adopts LSC’s prior interpretation of permissible legal assistance for persons eligible under anti-abuse laws. The definition of “related legal assistance” in the interim rule conforms to the interpretation of that term in the February 21, 2006 LSC Program Letter 06-2 providing guidance on the VAWA amendments. That program

letter referenced LSC's interpretation on the existing regulation 1626. 62 Fed. Reg. 45757 (preamble to final rule) (Aug. 29, 1997). In that interpretation, LSC concluded that related legal assistance for abused aliens could include representation on matters such as domestic and poverty law, employment, housing, and benefits, so long as such matters would assist in preventing, protecting from, or ameliorating abuse. *Id.* This same protection is necessary to fully protect persons in the added groups of aliens eligible for assistance, and accordingly the language added to the definition from prior LSC interpretations provides direction to recipients and other interested parties on the scope of assistance permissible.

Subsection (c) adds definitions for the three groups of aliens eligible for assistance under the anti-abuse statutes. Subsection (c)(1), the definition of persons "battered or subjected to extreme cruelty," is part of the existing regulation and is relocated from the definitions subsection, 1626.2, to the subsection on eligibility under the anti-abuse laws, 1626.4. The first sentence of subsection (c) defines "battered or subjected to extreme cruelty" by cross-reference to that term as defined in DHS regulations. This will allow the definition to remain accurate if the DHS regulations change. The examples of prohibited abusive behavior which follow the cross-reference are taken directly from the language of existing DHS regulations. See 45 C.F.R. § 204.2(c)(1)(vi); 8 C.F.R. § 216.5(e); 8 C.F.R. § 1216.5(e)(3)(i). This language is the definition of "battered or subjected to extreme cruelty" in the existing regulation.

Subsection (c)(2), the definition of "sexual assault or trafficking", derives from VAWA and the INA "U visa" provision, the TVPA, and TVPRA, and incorporates by cross-reference the definitions in those statutes. ~~The proposed rule divides the definition of trafficking into two parts, the first being a definition of the term "trafficking" under law, including VAWA and the INA, and the second being a~~

Subsection (c)(3) incorporates the definition of the term "severe forms of trafficking" from under the INA "T visa" provision, TVPA and TVPRA. ~~This reflects that VAWA and the U visa provision of the INA use the term "trafficking," while the "T visa" provision of the INA, the TVPA, and the TVPRA use the term "severe forms of trafficking." LSC seeks special comment on whether these multiple terms for trafficking are substantively different, if so how, or whether one of the terms effectively contains the other so that the distinction in subsection (c)(2) of the proposed rule is not necessary.~~

Subsection (c)(~~4~~3) identifies persons "qualified for relief" under the U visa statute, section 101(a)(15)(U) of the INA. This includes persons who have been granted U visas, listed in subsection (c)(3)(A). Because the term "qualified for relief" is not limited to persons who have been granted relief, the U visa subsection also establishes eligibility for applicants for U visa relief and for persons who have not applied but who a recipient concludes are entitled to U visa relief. These latter two groups are included to permit recipients to represent aliens who have either applied for U visa relief or would, in the recipient's determination, qualify for U visas but have not applied.

The eligibility provisions for U visa qualified aliens who have not been granted U visa relief require that there be evidentiary support for a recipient's determination of U visa qualification and eligibility. This standard is adopted from Rule 11 of the Federal Rules

of Civil Procedure and is used to require recipients to have a factual basis for eligibility determinations.

The last sentence of subsection (c)(~~43~~) addresses the two categories of U visa relief, referred to in immigration forms as “primary U visa status” and “derivative U visa” status. Primary U visas are those sought by persons who are victims of abuse or who can assist with investigation or enforcement of such crimes, while derivative visas are those sought for family members of persons seeking primary U visas.

Derivative U visa applicants are qualified for relief based on the eligibility of their family members applying for primary U visa status. The clarification in the proposed rule confirms that all U visa seekers are eligible for assistance without exclusion of applicants seeking derivative U visa status. The Corporation determined that this clarification would be useful to incorporate the analysis and conclusions of a recent Advisory Opinion from the LSC Office of Legal Affairs on U visa eligibility. See LSC Advisory Opinion AO-2013-003 (June 13, 2013).

Subsection (d) of the proposed rule addresses two issues regarding geographic location. As described below, LSC specifically requests comments on these issues. Generally, the 504(a)(11) provision regarding eligible aliens requires presence in the United States, a requirement set forth in Section 1626.5. The anti-abuse laws enacted by Congress subsequent to the LSC Act do not contain the same broad presence requirement.

The first geographic location issue is the geographic location of the criminal activity that gives rise to the eligibility of the alien, addressed in subsection (d)(1). The prohibitions of VAWA and the trafficking acts are not limited to activity within the United States. Similarly, the VAWA definition of “battered and extreme cruelty” was amended to eliminate the requirement that such conduct take place in the United States. The U visa provision in the INA requires that the criminal activity have “violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories or possessions of the United States.” 8 U.S.C. § 1101(a)(15)(U)(i)(IV)(emphasis added). The DHS United States Custom and Immigration Service (“USCIS”) has interpreted this “as requiring that the predicate activity violate the laws of the United States *regardless of whether it occurred in the United States.*” 72 Fed. Reg. 53030 (September 17, 2007)(emphasis added).

The USCIS regulation makes clear that criminal activity violative of U.S. law sufficient for U visa eligibility *need not take place in the United States*. Similarly, because the geographic location restriction in the definition of “battered and subjected to extreme cruelty” has been eliminated, such conduct need not take place in the United States. The trafficking act definition does not state that trafficking activity must take place in the United States, though it refers to victims in the United States. 22 U.S.C. §§ 7102(9); 7105(b). Similarly, the “T visa” provision of the INA requires that a person be physically present in the United States to obtain relief, but does not require that the trafficking take place in the United States. 8 U.S.C. § 1101(a)(15)(T). Moreover, the list of crimes for which a U visa may be granted includes trafficking. 8 U.S.C. § 1101(a)(15)(U)(iii).

However, the VAWA amendment to Section 502 of the appropriations legislation states that “a victim or sexual assault or trafficking *in the United States*” is eligible for assistance. Pub. L. 109-162, 119 Stat. 2960, § 502(a)(2)(C)(emphasis added). This is narrower than the other, related definitions of trafficking, which do not require that trafficking occur in the U.S. Similarly, the TVPA and TVPRA refer to “severe forms of sexual trafficking in the United States.” 22 U.S.C. § 7105(b)(1)(B). It is LSC’s conclusion that the narrower VAWA, TVPA, and TVPRA language in the amendment to the LSC restriction at issue controls on this issue and that the trafficking and severe forms of trafficking must have occurred in the United States.

In sum, it is LSC’s view that the predicate activity for eligibility under the anti-abuse statutes need not take place in the United States so long as the activity violates a law of the United States, with the exception of trafficking and severe forms of trafficking, which must occur in the United States as described above. LSC specifically requests comment on this issue, and on the interpretation of the meaning of the statutory phrase “a victim of sexual assault or trafficking in the United States” as it appears in Section 502(a)(2)(C) of the LSC appropriations. Pub. L. 109-162, 119 Stat. 2960, § 502(a)(2)(C).

The second geographic location issue is whether an alien must be physically present in the United States to be eligible, addressed in subsection (d)(2). The U visa statutory provision does *not* impose a physical presence requirement. The USCIS interpretation states that its regulation “does not require petitioners to file for relief within the U.S. The statute does not require petitioners to be physically present to qualify for U visa status.” 72 Fed. Reg. 53021 (September 17, 2007).

VAWA does not address whether aliens must be physically present in the U.S. The trafficking acts themselves do not impose such a requirement, although they do reference victims in the United States and eligibility for services when victims are in the United States. 22 U.S.C. § 7105(b). However, the T visa provision of the INA, which establishes visa eligibility for victims of trafficking, requires that victims be present in the United States. 8 U.S.C. § 1101(a)(15)(T). The VAWA amendment to the appropriations legislation refers to eligibility for “victims of sexual assault or trafficking in the United States.” Pub. L. 109-162, 119 Stat. 2960, §502(a)(2)(C) (amending §502(a)(2)(C)). Complicating this further, trafficking and VAWA violations are among the crimes that establish U visa eligibility, so a victim of trafficking who is not in the United States can obtain a U visa but not a T visa. 8 U.S.C. § 1101(a)(15)(U).

Reviewing these statutes collectively, it is the view of LSC that aliens should be eligible for assistance under the anti-abuse statutes regardless of whether they are present in the United States. Most significantly, this interpretation of the statutes comports with the USCIS interpretation of the U visa statute, under which victims of trafficking and VAWA violations may seek relief. Victims of sexual assault *and* trafficking are qualified for U visa relief and need not be physically present in the United States for such relief. LSC specifically requests comment on this issue.

Subsection (e) of the proposed rule, “evidentiary support”, establishes an evidentiary standard for determining eligibility for assistance under the anti-abuse statutes. The

standard is adopted from Rule 11 of the Federal Rules of Civil Procedure, and permits a recipient to determine an alien is eligible if there is evidentiary support that the alien falls within any of the eligibility categories or if there is likely to be evidentiary support after reasonable opportunity for further investigation. The list of examples of evidence that would meet the standard is taken from VAWA, which allows consideration of “any credible evidence” of abuse. This standard is established in section 204(a)(1)(J) of the INA (8 U.S.C. § 1154(a)(1)(J)), and has been adopted by the Department of Homeland Security. 8 C.F.R. § 204.2(c)(1)(vi). Subsection (e) of the proposed rule identifies the examples of credible evidence listed in VAWA and the DHS regulation.

In applying the evidentiary standard, LSC considered that recipients will be making eligibility determinations on whether aliens qualify for recipient assistance on pending and contested claims rather than making final decisions on the merits of the claims of aliens for relief. For that reason, LSC chose an evidentiary standard that was appropriate for assessing the validity of filing and proceeding with claims. The evidentiary support standard in the proposed rule addresses the issues that recipients will confront in assessing eligibility in several ways.

First, the rule adopts a standard based on Rule 11 of the Federal Rules of Civil Procedure for filing and continuing with claims. Second, the standard permits recipients to make a judgment that an alien who may not possess evidence at intake will be able to do so after further investigation. Third, the rule allows eligibility based on statements taken from an alien, which may in some cases be the only evidence available during intake. Fourth, the rule accounts for the reality that the facts underlying eligibility assessments in abuse cases will often be fluid by calling for recipient staff to continue to assess eligibility beyond the intake process and to reverse eligibility determinations when appropriate. Fifth, the rule does not permit a recipient to delay in making eligibility determinations in order to provide assistance to an ineligible alien.

Subsection (f) of the proposed rule is a revision of subsection (d) of the existing regulation, which states that recipients are not required to maintain records regarding the immigration status of clients represented under 1626.4(a). The reason for this waiver of immigration status recordkeeping for clients eligible under 1626.4 is that, under the existing regulation, clients are eligible under 1626.4 because they are victims of abuse and not because of their immigration status.

For clients who are eligible because they are battered, subjected to extreme cruelty, victims of sexual abuse, or victims of trafficking or severe forms of trafficking, but who have not been granted visa, eligibility is based on abuse and not on immigration status. Subsection (f)(2) of the proposed rule requires that evidence of the abuse must be maintained for such clients but does not require evidence of immigration status. When such clients have filed applications for U visas or T visas copies of those applications must be retained.

However, the eligibility of certain of the aliens eligible under the proposed rule does rest in part on immigration status. Specifically, the eligibility of aliens who have been granted U visas or T visas is based on their immigration status in the U visa process. Accordingly, subsection (f)(1) in the proposed rule requires that recipients maintain

verification of U visa or T visa status for clients whose eligibility is based on their receiving such visas.

Subsection (g) is a new provision that addresses aliens who qualify under both sections 1626.4 and 1626.5. Because recipients are limited to providing “related legal assistance” under 1626.4 but may provide the full range of permissible assistance without this restriction under 1626.5, the subsection instructs recipients to treat “dual eligible” aliens under 1626.5.

Section 1626.5 Aliens eligible for assistance based on immigration status

This section is substantively unchanged. As explained in the immediately preceding discussion, the titles for proposed section 1626.4 and this section, 1626.5, have been changed to describe more precisely the exceptions to the prohibition of assistance to aliens established in those sections.

The proposed rule includes a change in section 1626.5(e), which concerns persons granted withholding of deportation. Section 1626.5 of the regulation allows recipients to provide assistance to several categories of aliens who have been granted immigration status and are lawfully present or admitted to the United States. 45 C.F.R. § 1626.5. One category eligible under this section is “alien[s] who [are] lawfully present in the United States as a result of the Attorney General’s withholding of deportation pursuant to section 243(h) of the INA (8 U.S.C. § 1253(h)).” 45 C.F.R. § 1626.5(e).

The withholding provision has been relocated to another section of the INA, and is now codified at 8 U.S.C. § 1231(b)(3). The relocated withholding provision prohibits the removal of an alien to a country if the life or freedom of the alien would be threatened in the country of removal. Section 1626.5(e) in the proposed regulation is amended to correctly identify the citation to the statutory basis for withholding relief, and to reflect that the relocated provisions refers to withholding of “removal” and not to withholding of “deportation.”

Section 1626.6 Verification of citizenship

No substantive revisions have been made to this section. The proposed rule amends the section to allow internet, email, or other non-telephone consults.

Section 1626.7 Verification of eligible alien status

This section is revised to reflect that the list of eligibility documents presently published as an appendix to section 1626 will be subsequently published and revised in LSC program letters. The revision made to section 1626.6 on non-in-person consults also appears in this section.

Section 1626.8 Emergencies

Section 1626.4 has been added to the list of provisions for which emergency service can be provided prior to compliance with eligibility provisions.

Section 1626.9 Change in circumstance

No revisions have been made to this section.

Section 1626.10 Special eligibility questions

No revisions have been made to this section.

Section 1626.11 H-2 forestry and agricultural workers

This section establishes eligibility for assistance to certain workers admitted to the U.S. under temporary workers provisions in section 101(a)(15)(H)(ii) of the INA. Workers with immigration status under this section of the INA are often referred to as “H-2a” or “H-2b” visa holders, depending on the subsection of the H-2 provision they are admitted under.

The title of this section has been changed to add a reference to forestry workers, because statutory changes implemented in this section of the proposed rule add forestry workers authorized to be in the United States pursuant the H-2b provision of the INA.

The changes in subpart (a) of this section conform the regulation’s language on eligibility of agricultural workers to the statutory authority establishing this eligibility. The statutory authority establishing eligibility for agricultural workers, section 504(a)(11)(E) of the FY 1996 LSC appropriations legislation, permits recipients to provide assistance to “an alien to whom section 305 of the Immigration Reform Act of 1986 [“IRCA”] (8 U.S.C. § 1101 note) applies.” Pub. L. 104-134, Title V, § 504(a)(11)(E), as amended, Pub. L. 110-161, Div. B, Title V, § 540. Section 305 of IRCA in turn establishes eligibility for “non-immigrant worker[s] admitted or permitted to remain in the United States under section 101(a)(15)(H)(ii)(a) of the Immigration and Naturalization Act .” 8 U.S.C.1101, note.

The existing section 1626.11 language refers generally to “agricultural H-2 workers” and eligibility “under the provisions of 8 U.S.C. § 101(a)(15)(H)(ii).” This general reference to H-2 could be confused as a broader authorization than that actually created by the statute, which establishes eligibility specifically for H-2a agricultural workers. The revised rule clarifies this by citing section H-2a rather than H-2.

The added subsection (b) implements the FY 2008 amendment to section 504(a)(11)(E) of the FY 1996 LSC appropriations legislation, which extended eligibility for assistance from recipients to H-2b visa forestry workers. Pub. L. 104-134, Title V, § 504(a)(11)(E), as amended, Pub. L. 110-161, Div. B, Title V, § 540. The existing section 1626.11 provision on H-2 visa eligibility does not include forestry workers.

Subsection (b) of the proposed rule also establishes that the existing limitations on assistance for H-2a agricultural workers apply as well to H-2b forestry workers. This

conforms to the FY 2008 LSC appropriation, which limits the assistance for H-2b eligible forestry workers to that described in section 305 of IRCA. *Id.* Section 305 limits assistance to matters on wages, housing, transportation and other employment rights which arise under a temporary worker's specific employment contract. 8 U.S.C. § 1101, note. The limitations, codified in the existing regulation at subsection (b), appear without substantive revision in subsection (c) of the proposed rule.

Section 1626.12 Recipient policies, procedures and recordkeeping

No revisions have been made to this section.

Program Letter on Part 1626—Examples of documents and other information establishing alien eligibility for representation by LSC Programs

The list of eligibility documents presently included in the regulation as an appendix to Part 1626 was last updated in 2003, and, like the regulation, it requires update. Revisions to the list do not entail policy decisions, as they are limited to administrative updates to the list of examples of documents or information which satisfy eligibility. In view of the frequency with which immigration forms change, subjecting updates of the list to the process of repeated Board approval and the LSC rulemaking protocol would be unduly complicated. For that reason, the Corporation proposes that the information currently contained in the appendix be reclassified as a program letter posted on the LSC website, and emailed to grant recipients.

The initial revision of the appendix and reclassification as a program letter is a change in the regulation and is therefore being done pursuant to the LSC rulemaking protocol, which requires Board review and approval prior to publication for notice and comment. Legal Services Corporation Rulemaking Protocol, Fed. Reg. 69762 (November 19, 2002). Subsequent revision of the program letter would allow for, but would not require, Board consideration and approval and thereafter notice and comment.

PART 1626—RESTRICTIONS ON LEGAL ASSISTANCE TO ALIENS

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§ 1626.11 H-2 forestry and agricultural workers.

§ 1626.12 Recipient policies, procedures and recordkeeping.

Program Letter on Part 1626—Examples of Documents Establishing Alien Eligibility for Representation by LSC Programs

AUTHORITY: Pub. L. 104-208, 110 Stat. 1321; Pub. L. 104-134, 110 Stat. 3009; Pub. L. 105-119, 111 Stat. 2440; Pub. L. 106-386, 114 Stat. 1464; Pub. L. 108-193, 117 Stat. 2875; Pub. L. 109-162, 119 Stat. 2960; Pub. L. 110-161, 121 Stat. 1844.

SOURCE: 62 FR 19414, Apr. 21, 1997, unless otherwise noted.

§ 1626.1 Purpose.

This part is designed to ensure that recipients provide legal assistance only to citizens of the United States and eligible aliens. It is also designed to assist recipients in determining the eligibility and immigration status of persons who seek legal assistance.

1626.2 Definitions.

(a) *Citizen* includes a person described or defined as a citizen or national of the United States in 8 U.S.C. 1101(a)(22) and Title III of the Immigration and Nationality Act (INA), Chapter 1 (8 U.S.C. 1401 *et seq.*) (citizens by birth) and Chapter 2 (8 U.S.C. 1421 *et seq.*) (citizens by naturalization) or antecedent citizen statutes.

(b) *Eligible alien* means a person who is not a citizen but who meets the requirements of § 1626.4 or § 1626.5.

(c) *Ineligible alien* means a person who is not a citizen and who does not meet the requirements of § 1626.4 or § 1626.5.

(d) *Rejected* refers to an application for adjustment of status that has been denied by the Department of Homeland Security (DHS) and is not subject to further administrative appeal.

(e) To provide legal assistance *on behalf of* an ineligible alien is to render legal assistance to an eligible client which benefits an ineligible alien and does not affect a specific legal right or interest of the eligible client.

(f) *Anti-abuse statutes* means the Violence Against Women Act of 1994, Pub. L. 103-322, 108 Stat. 1941, as amended and the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109-162, 119 Stat. 2960 (collectively referred to as “VAWA”); the Trafficking Victims Protection Act of 2000, Pub. L. 106-386, 114 Stat. 1464 (“TVPA”); the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (“TVPRA”); Section 101(a)(15)(T) of the Immigration and Naturalization Act (“INA”), 8 U.S.C. § 1101(a)(15)(T); Section 101(a)(15)(U) of the INA, 8 U.S.C. § 1101(a)(15)(U); and the incorporation of these statutory provisions in

Section 502(a)(2)(C) of LSC's FY 1998 appropriation, Pub. L. 105-119, Title V, 111 Stat. 2440, 2510 as incorporated by reference thereafter, Pub. L. 113-6, 127 Stat. 198, 267 (2013) (LSC's FY 2013 appropriation).

((f) *United States*, for purposes of this part, has the same meaning given that term in 8 U.S.C. 1101(a)(38) of the INA.

[62 FR 19414, Apr. 21, 1997, as amended at 62 FR 45757, Aug. 29, 1997]

§ 1626.3 Prohibition.

Recipients may not provide legal assistance for or on behalf of an ineligible alien. For purposes of this part, legal assistance does not include normal intake and referral services.

§ 1626.4 Aliens eligible for assistance under anti-abuse laws.

(a) Subject to all other eligibility requirements and restrictions of the LSC Act and regulations and other applicable law:

(1), a recipient may provide related legal assistance to an alien who is within one of the following categories:

(A) an alien who has been battered or subjected to extreme cruelty, or is a victim of sexual assault or trafficking in the United States, or qualifies for relief under section 101(a)(15)(U) of the INA (8 U.S.C. § 1101(a)(15)(U)); or

(B) an alien whose child, without the active participation of the alien, has been battered or subjected to extreme cruelty, or has been a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section 101(a)(15)(U) of the INA (8 U.S.C. § 1101(a)(15)(U)).

(2) a recipient may provide legal assistance, including but not limited to related legal assistance, to:

(A) an alien who is a victim of "severe forms of trafficking" of persons in the United States, or

(B) an alien classified as a non-immigrant under section 101 (a)(15)(T)(ii) of the INA (8 U.S.C. § 1101(a)(15)(T)(ii) regarding others related to the victim)

(b) *Related legal assistance* means legal assistance directly related

(1) to the prevention of, or obtaining of relief from, battery or cruelty, sexual assault or trafficking;

(2) to the prevention of, or obtaining relief from, crimes listed in section 101(a)(15)(U)(iii) of the INA (8 U.S.C. § 1101(a)(15)(U)(iii));

(3) to an application for relief (i) under section 101(a)(15)(U) of the INA (8 U.S.C. § 1101(a)(15)(U) or (ii) under section 101(a)(15)(T) of the INA (8 U.S.C. § 1101(a)(15)(T)).

Such assistance includes representation in matters that will assist a person eligible for assistance under this part to escape from the abusive situation, ameliorate the current effects of the abuse, or protect against future abuse, so long as the recipient can show the necessary connection of the representation to the abuse. Such representation may include immigration law matters, and domestic or poverty law matters (such as obtaining civil protective orders, divorce, paternity, child custody, child and spousal support, housing, public benefits, employment, abuse and neglect, juvenile proceedings and contempt actions).

(c) *Definitions of Categories of Eligible Aliens Under Anti-Abuse Statutes.*

(1) A person *battered or subjected to extreme cruelty* includes any person who has been battered or subjected to extreme cruelty as that term is defined in regulations interpreting VAWA. Examples of battering or extreme cruelty include, but are not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution may be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence.

(2) *A victim of sexual assault or trafficking* includes:

(A) *a victim of sexual assault* subjected to any conduct included in the definition of sexual assault or sexual abuse in VAWA, including but not limited to sexual abuse, aggravated sexual abuse, abusive sexual contact, or sexual abuse of a minor or ward; and

(B) *a victim of trafficking* subjected to any conduct included in ~~(1)~~ the definition of “trafficking” under law, including, but not limited to VAWA and the INA.

~~(3) the definition of A “victim of severe forms of trafficking” includes any person subjected to such abuse under the~~ TVPA or TVPRA as codified at 8 U.S.C. § 7105.

~~(4)~~ A person who *qualifies for immigration relief under section 101(a)(15)(U) of the INA* includes

(A) a person who has been granted relief under that section;

(B) a person who has applied for relief under that section and who the recipient determines has evidentiary support for such application; or

(C) a person who has not filed for relief under that section, but who the recipient determines has evidentiary support for filing for such relief.

A person who “qualifies for immigration relief” includes any person who may apply for primary U visa relief under subsection (i) of section 101(a)(15)(U) of the INA or for derivative U visa relief for family members under subsection (ii) of section 101(a)(15)(U) of the INA (8 U.S.C. § 1101(a)(15)(U)). Recipients may provide assistance for any person who qualifies for derivative U visa relief regardless of whether such a person has been subjected to abuse.

(d) *Geographic location.*

(1) *Location of activity giving rise to eligibility.* Except for aliens eligible because they are victims of trafficking or severe forms of trafficking, an alien is eligible under this section if the activity giving rise to eligibility violated a law of the United States, regardless of whether that conduct took place in the United States or a United States territory. Victims of trafficking must be subjected to illegal trafficking in the United States to be eligible for assistance.

(2) *Location of alien.* An alien need not be present in the United States or a United States territory to be eligible for assistance under this section.

(e) *Evidentiary support.* A recipient may determine that an alien is qualified for assistance under subsections (a) and (c) of this section if there is evidentiary support that the alien falls into any of the eligibility categories or if the recipient determines there will likely be evidentiary support after a reasonable opportunity for further investigation. Evidentiary support may include, but is not limited to, affidavits or unsworn written statements made by the alien; written summaries of statements or interviews of the alien taken by others, including the recipient; reports and affidavits from police, judges, and other court officials, medical personnel, school officials, clergy, social workers, other social service agency personnel; orders of protection or other legal evidence of steps taken to end abuse; evidence that a person sought safe haven in a shelter or similar refuge; photographs; documents or other evidence a series of acts that establish a pattern of qualifying abuse.

If the recipient determines that an alien is eligible because there will likely be evidentiary support, the recipient must obtain evidence of support as soon as possible and may not delay in order to provide continued assistance. Section 1626.9 applies for situations in which a previously eligible alien is determined to be ineligible, for example, if an alien’s application for U visa relief is denied or if there is an official DHS determination that an alien whose eligibility is based on trafficking was not a victim of trafficking. Because the facts determinative of alien eligibility based on anti-abuse statutes may develop or change, eligibility determinations made by intake personnel should be reviewed by other recipient staff members involved in the representation of an alien.

(f) *Recordkeeping.*

(1) For a client whose eligibility is based on a grant of relief under section 101(a)(15)(U) of the INA or section 101(a)(15)(T) of the INA, or any other grant of immigration status, recipients must maintain a copy of the visa or other official record of such relief from immigration authorities;

(2) For a client whose eligibility is based on other evidentiary support as described in subsection (e) of this section, recipients are required to maintain originals or copies of such evidence. When such a client has filed an application for relief under section 101(a)(15)(U) of the INA or section 101(15)(T), recipients must maintain a copy of the application for such relief filed with immigration authorities as well as copies of other evidentiary support.

(g) *Changes in basis for eligibility.* If, during the course of representing an alien eligible pursuant to this section 1626.4, a recipient determines that the alien is also eligible under section 1626.5, the recipient should treat the alien as eligible under section 1626.5 and provide all the assistance to which the alien is entitled under that section.

[62 FR 19414, Apr. 21, 1997, as amended at --- FR ---, (Date), 2013]

§ 1626.5 Aliens eligible for assistance based on immigration status.

Subject to all other eligibility requirements and restrictions of the LSC Act and regulations and other applicable law, a recipient may provide legal assistance to an alien who is present in the United States and who is within one of the following categories:

(a) An alien lawfully admitted for permanent residence as an immigrant as defined by section 1101(a)(20) of the INA (8 U.S.C. 1101(a)(20));

(b) An alien who is either married to a United States citizen or is a parent or an unmarried child under the age of 21 of such a citizen and who has filed an application for adjustment of status to permanent resident under the INA, and such application has not been rejected;

(c) An alien who is lawfully present in the United States pursuant to an admission under section 207 of the INA (8 U.S.C. 1157) (relating to refugee admissions) or who has been granted asylum by the Attorney General under section 208 of the INA (8 U.S.C. 1158).

(d) An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7), as in effect on March 31, 1980) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity;

(e) An alien who is lawfully present in the United States as a result of the Attorney General's withholding of removal pursuant to section 241(b)(3) of the INA (8 U.S.C. §1231(b)(3)); or

(f) An alien who meets the requirements of § 1626.10 or 1626.11.

[62 FR 19414, Apr. 21, 1997, as amended at --- FR ---, (Date), 2013]

§ 1626.6 Verification of citizenship.

(a) A recipient shall require all applicants for legal assistance who claim to be citizens to attest in writing in a standard form provided by the Corporation that they are citizens, unless the only service provided for a citizen is brief advice and consultation by telephone, or by other non-in-person means, which does not include continuous representation.

(b) When a recipient has reason to doubt that an applicant is a citizen, the recipient shall require verification of citizenship. A recipient shall not consider factors such as a person's accent, limited English-speaking ability, appearance, race or national origin as a reason to doubt that the person is a citizen.

(1) If verification is required, a recipient may accept originals, certified copies, or photocopies that appear to be complete, correct and authentic of any of the following documents as evidence of citizenship:

(i) United States passport;

(ii) Birth certificate;

(iii) Naturalization certificate;

(iv) United States Citizenship Identification Card (INS Form 1-197 or I-197);
or

(v) Baptismal certificate showing place of birth within the United States and date of baptism within two months after birth.

(2) A recipient may also accept any other authoritative document such as a document issued by INS, by a court or by another governmental agency, that provides evidence of citizenship.

(3) If a person is unable to produce any of the above documents, the person may submit a notarized statement signed by a third party, who shall not be an employee of the recipient and who can produce proof of that party's own United States citizenship, that the person seeking legal assistance is a United States citizen.

§ 1626.7 Verification of eligible alien status.

(a) An alien seeking representation shall submit appropriate documents to verify eligibility, unless the only service provided for an eligible alien is brief advice and consultation by telephone, or by other non-in-person means, which does not include continuous representation of a client.

(1) As proof of eligibility, a recipient may accept originals, certified copies, or photocopies that appear to be complete, correct and authentic, of any documents establishing eligibility. LSC may publish lists of examples of such documents from time to time.

(2) A recipient may also accept any other authoritative document issued by the DHS, by a court or by another governmental agency, that provides evidence of alien status.

(b) A recipient shall upon request furnish each person seeking legal assistance with any list of documents establishing eligibility under this part as is published by LSC.

§ 1626.8 Emergencies.

In an emergency, legal services may be provided prior to compliance with § 1626.4, § 1626.6 and § 1626.7 if:

(a) An applicant cannot feasibly come to the recipient's office or otherwise transmit written documentation to the recipient before commencement of the representation required by the emergency, and the applicant provides oral information to establish eligibility which the recipient records, and the applicant submits the necessary documentation as soon as possible; or

(b) An applicant is able to come to the recipient's office but cannot produce the required documentation before commencement of the representation, and the applicant signs a statement of eligibility and submits the necessary documentation as soon as possible; and

(c) The recipient informs clients accepted under paragraph (a) or (b) of this section that only limited emergency legal assistance may be provided without satisfactory documentation and that, if the client fails to produce timely and satisfactory written documentation, the recipient will be required to discontinue representation consistent with the recipient's professional responsibilities.

§ 1626.9 Change in circumstances.

If, to the knowledge of the recipient, a client who was an eligible alien becomes ineligible through a change in circumstances, continued representation is prohibited by this part and a recipient must discontinue representation consistent with applicable rules of professional responsibility.

§ 1626.10 Special eligibility questions.

(a) (1) This part is not applicable to recipients providing services in the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, or the Republic of the Marshall Islands.

(2) All citizens of the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands residing in the United States are eligible to receive legal assistance provided that they are otherwise eligible under the Act.

(b) All Canadian-born American Indians at least 50% Indian by blood are eligible to receive legal assistance provided they are otherwise eligible under the Act.

(c) Members of the Texas Band of Kickapoo are eligible to receive legal assistance provided they are otherwise eligible under the Act.

(d) An alien who qualified as a special agricultural worker and whose status is adjusted to that of temporary resident alien under the provisions of the Immigration Reform and Control Act ("IRCA") is considered a permanent resident alien for all purposes except immigration under the provisions of section 302 of 100 Stat. 3422, 8 U.S.C. 1160(g). Since the status of these aliens is that of permanent resident alien under section 1101(a)(20) of Title 8, these workers may be provided legal assistance. These workers are ineligible for legal assistance in order to obtain the adjustment of status of temporary resident under IRCA, but are eligible for legal assistance after the application for adjustment of status to that of temporary resident has been filed, and the application has not been rejected.

(e) A recipient may provide legal assistance to indigent foreign nationals who seek assistance pursuant to the Hague Convention on the Civil Aspects of International Child abduction and the Federal implementing statute, the International Child Abduction Remedies Act, 42 U.S.C. 11607(b), provided that they are otherwise financially eligible.

[62 FR 19414, Apr. 21, 1997; 62 FR 22895, Apr. 28, 1997, as amended at 72 FR 52491, Sept. 14, 2007]

§ 1626.11 H-2 agricultural and forestry workers.

(a) Non-immigrant agricultural workers admitted under the provisions of 8 U.S.C. 1101(a)(15)(h)(ii)(a), commonly called H-2(a) agricultural workers, may be provided legal assistance regarding the matters specified in paragraph (c) of this section;

(b) Non-immigrant forestry workers admitted under the provisions of 8 U.S.C. 1101(a)(15)(h)(ii)(b), commonly called H-2(b) forestry workers, may be provided legal assistance regarding the matters specified in paragraph (c) of this section.

(c) The following matters which arise under the provisions of the worker's specific employment contract may be the subject of legal assistance by an LSC-funded program:

(1) Wages;

(2) Housing;

(3) Transportation; and

(4) Other employment rights as provided in the worker's specific contract under which the nonimmigrant worker was admitted.

[62 FR 19414, April 21, 1997, as amended at - FR -, (Date), 2013]

§ 1626.12 Recipient policies, procedures and recordkeeping.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part and shall maintain records sufficient to document the recipient's compliance with this part.

[62 FR 19414, Apr. 21, 1997; 62 FR 22895, Apr. 28, 1997]

~~Appendix to Program Letter on Part 1626—Examples of documents and other information establishing alien eligibility for representation by LSC programs.~~


~~Withdrawn
[To be added]~~

Grant Assurances for 2014 Grant Awards



MEMORANDUM

TO: Operations and Regulations Committee

FROM: James J. Sandman, President 

DATE: June 26, 2013

SUBJECT: Grant Assurances for LSC 2014 Grant Awards

This memorandum provides background on the attached Grant Assurances for LSC's 2014 grant awards. The Grant Assurances underwent significant revisions in 2008, and modifications since then have been few. There are no substantive changes or new Grant Assurances for 2014. Two of the current Grant Assurances have been revised to clarify the rights and responsibilities of LSC and the grantee and/or to make the Grant Assurances easier to understand and use.

Background:

Grant Assurances are standard for all grantees and are required to be executed by each LSC grantee when it applies for and when it accepts a grant from LSC. They include certifications by the grantee and delineate certain responsibilities of the grantee. Grant Assurances 1-6 address applicable legal requirements; Grant Assurances 7-9 address programmatic requirements; Grant Assurances 10-19 address records and information, recordkeeping, and notification requirements; and Grant Assurances 20-21 address the grantee's responsibility to assist in resolving outstanding audit or compliance issues and the use of the LSC Logo.

The Grant Assurances are periodically updated or revised based on LSC's experience and on suggestions received from the Office of Inspector General and third parties. They are reviewed annually by a staff working group comprised of representatives from the Offices of Compliance and Enforcement, Information Management, Legal Affairs, and Program Performance.

Representatives from the OIG provided recommendations to the committee in this year's review process. The National Legal Aid and Defender Association also provided input. To ensure transparency in this process, LSC also published the proposed 2014 Grant Assurances on the "LSC Grants" website on May 1, 2013, for thirty days, for public comment. A Federal Register notice informed the public of the changes proposed for the 2014 Grant Assurances, the location for reviewing the proposed 2014 Grant Assurances, and the options for submitting comments to LSC. We did not receive any comments.

Operations & Regulations Committee
July 8, 2013
Page Two

This memorandum includes the following four attachments:

- **Attachment 1** is the LSC "*Statement of Purpose - Grant Assurances*," which is the guide LSC uses in considering revisions to the Grant Assurances.
- **Attachment 2** discusses the proposed revisions for the 2014 Grant Assurances. Revisions are proposed for two Grant Assurances. (i.e., GA #13 and GA #17).
- **Attachment 3** is a copy of the 2014 Grant Assurances shown with "track changes" from the current Grant Assurances.
- **Attachment 4** is a clean copy of the 2014 Grant Assurances. All of the recommended updates are included in this attachment.

I do not believe that the 2014 Grant Assurances require action by the Committee or full Board. In recent years, however, Grant Assurances have been presented to the Operations and Regulations Committee. Consistent with that practice I am submitting them to the Committee.

I would be happy to answer any questions you may have or provide any additional information you would like

***Statement of Purpose - LSC Grant Assurances
(Final - January 18, 2007)***

The purpose of the LSC Grant Assurances is to delineate the rights and responsibilities of LSC and the recipient pursuant to the provisions of the grant.¹

As a grant-making agency created by Congress, LSC has Grant Assurances that are intended to reiterate and/or clarify the responsibilities and obligations already applicable through existing law and regulations and/or obligate the recipient to comply with specific additional requirements in order to effectuate the purposes of the LSC Act and other applicable law.

LSC Grant Assurances must serve one or more of the following objectives:

- 1) Ensure or support compliance with applicable law
- 2) Protect the legal and financial interests of LSC as grantor
- 3) Enable LSC to administer its grants effectively and efficiently
- 4) Promote the effective delivery of high quality legal services to eligible clients in an efficient manner
- 5) Prevent disputes and promote the expeditious resolution of any disputes that do occur

In addition, if a potential Grant Assurance serves one or more of the objectives stated above, in order for it to be included, it must meet the following requirements:

- 1) It is reasonably related to the purpose of the grant
- 2) It is appropriate for uniform application to all recipients
- 3) It is not duplicative of another existing Grant Assurance

¹ There are substantive distinctions between Grant Assurances and special grant conditions. Grant assurances apply to all grantees. Special grant conditions are specific in application to an individual grantee.

ATTACHMENT 1 (continued)

Further, a potential Grant Assurance which appears appropriate for inclusion because it fulfills the criteria set forth above should also:

- 4) be drafted in simple and straightforward terms, to the extent possible, and
- 5) the value of its objectives should outweigh any additional burden that the Grant Assurance imposes on grantees (does not apply to reiteration of statutory or regulatory requirements)

If a Grant Assurance reiterates a statutory or regulatory requirement, one or more of the following applies:

- 1) It clarifies the requirement in order to provide additional guidance
- 2) It provides specific notice of the requirement which might not be otherwise readily known to the grantee
- 3) LSC is required by statute or regulation to include the requirement in the Grant Assurances

ATTACHMENT 2

Summary of recommended changes for the 2014 Grant Assurances

Grant Assurances 13 and 17 are affected. The updates to these Grant Assurances are not substantive. To facilitate your review, the updates are shown using “track changes” (see Attachment 3). Please refer to Attachment 3 while reviewing the information below.

Grant Assurance #13 (*This grant assurance bars recipients from taking or threatening to take disciplinary action against employees or volunteers for cooperating with, or the release of appropriate information to LSC. Requires each grantee to notify its staff that it will not take retaliatory actions for any appropriate cooperation with LSC or other entity authorized to receive such cooperation.*)

The last sentence in Grant Assurance #13 is modified to state that recipients will notify staff and volunteers “*in writing*” that recipient will not take or threaten to take disciplinary action against employees or volunteers for cooperating with, or the appropriate release of information to LSC.

Rationale: The modification further ensures that the policy is known to recipient staff and volunteers. It does not create a burden on recipients, because written notification can be accomplished easily by posting on the recipient’s intranet, personnel policy manual, and/or bulletin board.

Grant Assurance #17 (This grant assurance requires recipients to maintain all records pertaining to the grant and supporting documents sufficient for LSC to audit those records.)

The first sentence in Grant Assurance #17 is modified to inform recipients to follow the record retention requirements provided in Appendix II of the Accounting Guide for LSC Recipients (2010 Edition). The second sentence in Grant Assurance #17 is modified to inform recipients that digital images of financial records will have the same legal status as the original records in print form unless otherwise required by applicable law.

Rationale: This modification avoids any confusion about record retention and maintenance requirements and ensures consistency between the grant assurances and the Accounting Guide for LSC Recipients.



**Proposed LSC Grant Assurances
for Calendar Year 2014 Funding
“with track changes”**

If Applicant is successful and receives an LSC grant or contract,

APPLICANT HEREBY ASSURES THAT:

1. It will comply with the requirements of the Legal Services Corporation Act of 1974 as amended (LSC Act), any applicable appropriations acts and any other applicable law, rules, regulations, policies, guidelines, instructions, and other directives of the Legal Services Corporation (LSC), including, but not limited to, LSC Audit Guide for Recipients and Auditors, the Accounting Guide (2010 Edition), the CSR Handbook (2008 Edition, as amended 2011), the 1981 LSC Property Manual (as amended) and the Property Acquisition and Management Manual, and with any amendments of the foregoing adopted before or during the period of this grant. It will comply with both substantive and procedural requirements, including recordkeeping and reporting requirements. It understands that a successful Applicant may be required to agree to special grant conditions as a condition of receiving the grant. Multi-year grants must be renewed each year. Upon renewal, new terms and conditions may apply.
2. It agrees to be subject to all provisions of Federal law relating to the proper use of Federal funds listed in 45 C.F.R. § 1640.2(a)(1). It understands that if Applicant violates any Federal laws identified in 45 C.F.R. Part 1640, it may be subject to civil, criminal and/or administrative penalties. It represents that it has informed employees and board members of the Federal laws and their consequences both to the recipient and to themselves as individuals as required in 45 C.F.R. § 1640.3.
3. It agrees that all derivative income from these grant funds shall also be subject to the terms and conditions of this grant as authorized by 45 C.F.R. Part 1630.
4. It will not discriminate on the basis of race, color, religion, gender, age, disability, national origin, sexual orientation, or any other basis prohibited by law against: (1) any person applying for employment or employed by the Applicant; or (2) any person seeking or provided assistance from the Applicant or other program(s) supported in whole or in part by this grant. The governing body has adopted or will adopt in a timely manner Equal Opportunity and Sexual Harassment Policies, each of which must include an effective mechanism for processing complaints.

5. It will notify the LSC Office of Inspector General (OIG) within thirty (30) calendar days after replacement of the Independent Public Accountant (IPA), termination of the IPA, or any other occurrence resulting in a new IPA performing the grantee's annual financial audit. No audit costs may be charged to the LSC grant when the audit required has not been made in accordance with the guidance promulgated by the OIG. It understands that if it fails to have an audit acceptable to the OIG in accordance with the OIG's audit guidance (including the Audit Guide for Recipients and Auditors), LSC may impose sanctions in addition to those specified by statute, which are: (1) withholding of a percentage of the recipient's funding until the audit is completed satisfactorily; and (2) suspension of the recipient's funding until an acceptable audit is completed. Other possible sanctions that LSC may impose for not having an acceptable audit include special grant conditions and/or corrective actions.
6. It understands that Congress may reduce, rescind or sequester LSC funding or may impose additional requirements or restrictions on the use of LSC funding. An award of a grant under the competitive bidding process does not obligate LSC to disburse any funds that are not authorized or appropriated by Congress, nor preclude the imposition of additional Congressional requirements on any funds that are so disbursed. Such requirements or reductions as implemented by LSC shall not constitute a termination or suspension of funding.
7. It will provide legal services in accordance with the plans set out in its grant application, as modified in further negotiations with LSC, and agrees to provide high quality, economical, and effective legal assistance, as measured by the LSC Performance Criteria, ABA Standards for the Provision of Civil Legal Aid, ABA Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means, and consistent with any applicable code or rules of professional conduct, responsibilities, or ethics.
8. With respect to its office technology:
 - (a) it has an information security system that ensures confidentiality and security of its operations, assets, data, and files.
 - (b) it will conduct program-wide conflicts checking contemporaneously with intake using a case management system with an electronic database, including when intake is conducted outside its offices and contemporaneous access to the case management system is available.
 - (c) it has a plan for backing up case management data, financial data, documents and other critical data. It performs these backups at least weekly and checks their integrity by restoring test files. Further, it stores electronic or physical copies of these backups in a safe, offsite location.
 - (d) it has the capacity to convert paper documents into Portable Document Format (PDF) and the capacity to transmit those documents as electronic files.

- (e) each case handler has a computer at her or his work area that can perform all of the following functions: word processing, access to the case management system, access to time-keeping, access to the Internet, including the ability to download files from the Internet, and e-mail capability with the capacity to send and receive messages and attachments both internally and externally. It understands that the above functions describe the minimum functionality of existing computers only. It further agrees that any new computer, monitor, or printer purchased to perform the above functions will have a capacity to exceed the demands of current operating systems and software so that it can reasonably be expected to perform adequately with few upgrades for at least three years.
- 9. It will work with other LSC and non-LSC-funded legal services providers in the State to ensure that there is a statewide website that publishes a full range of relevant and up-to-date community legal education/pro se related materials and referral information, at least covering the common topics facing the client communities on the subject matters that are the Applicant's priorities. It will contribute to sustaining said website according to the plan for the development and maintenance of the website adopted by the statewide website Stakeholders Committee of which it will be a member. As a member of the Committee it will work to ensure that: 1) outreach is conducted for members of the client community to inform them of the website and about how to use it, 2) the website is periodically evaluated and updated for ease of use and accessibility to meet the needs of as many consumers as possible, and 3) the LSC logo is used on at least the homepage of the website (see Grant Assurance 21 for further instructions and clarification on terms of usage). If a Technology Initiative Grant (TIG) was awarded to start the website using either the LawHelp or Open Source template, it will maintain the scope of functionality of the template it was using, including the capability of having separate sections on the website for clients, legal services advocates, and pro bono attorneys; adhering to the "National Subject Matter Index"; and the ability to use the LawHelp interactive HotDocs server.
- 10. During normal business hours and upon request, it will give any authorized representative of LSC, including the OIG, or the Comptroller General of the United States (which includes the Government Accountability Office (GAO)) access to and copies of all records that they are entitled to under the provisions of the LSC Act and other applicable laws. This requirement does not apply to any such materials that may be properly withheld due to applicable law or rules. It agrees to provide LSC with the requested materials in a form determined by LSC while, to the extent possible consistent with this requirement, preserving applicable client secrets and confidences and respecting the privacy rights of the Applicant's staff members. For those records subject to the attorney-client privilege, it will identify in writing the specific record(s) not being provided and the legal justification for not providing the record(s).
- 11. Notwithstanding any other Grant Assurance, §1006(b)(3) of the LSC Act, 42 U.S.C. § 2996e(b)(3), or any state rule governing professional responsibility, it shall, upon request, provide access to and copies of financial records, time records, retainer

agreements, client trust fund and eligibility records, and client names, except for those reports or records that may be properly withheld due to applicable law governing attorney-client privilege, to LSC, including the OIG, and to any Federal department or agency that is auditing or monitoring the activities of LSC or of the Applicant and any independent auditor or monitor receiving Federal funds to conduct such auditing or monitoring, including any auditor or monitor of LSC. For those reports or records subject to the attorney-client privilege, it will identify in writing the specific record(s) not being provided and the legal justification for not providing the record. Any materials furnished pursuant to this Assurance shall be provided in a timely manner.

12. It will cooperate with all reasonable information collection, including surveys, questionnaires, monitoring, audits, investigations, and compliance or evaluation activities undertaken by LSC, including the OIG, or its agents. Such cooperation shall include making staff available to LSC, including the OIG, or its agents for interview and otherwise allowing staff to cooperate with the same. It understands that nothing in these Grant Assurances in any way restricts or limits the authority of the LSC OIG to access any and all records and information to which it is entitled under the Inspector General Act of 1978, as amended, 5 U.S.C. app. § 3. It will submit, for each year of the grant and for each service area for which a grant is awarded, Grant Activity Reports in a format and at a time determined by LSC.
13. It will not take or threaten to take any disciplinary or other retaliatory action against any person because of any appropriate cooperation with or the appropriate release of information to LSC, including the OIG, or other entity authorized to receive such cooperation or information pursuant to applicable procedures and consistent with any applicable law, code of ethics, or rule of professional responsibility. It will notify its employees and volunteers in writing that it will not take any disciplinary or other retaliatory action against an employee or volunteer (including board members) for any appropriate cooperation with LSC, including the OIG, or other entity authorized to receive such cooperation.
14. It will notify the LSC Office of Information Management within thirty (30) calendar days after any of the following occurrences that involve activities funded by the grant:
 - a. a decision to close and/or relocate any main or staffed branch office;
 - b. change of chairperson of the governing/policy body (including the new chairperson's name, telephone number, and e-mail address);
 - c. change of chief executive officer (including the new chief executive officer's name, telephone number, and e-mail address);
 - d. change in its charter, articles of incorporation, by-laws, or governing body structure; or
 - e. change in its main e-mail address or its website address (URL).
15. It will notify the LSC OIG Hotline (Telephone: 800-678-8868 or 202-295-1670; E-mail hotline@oig.lsc.gov; Fax 202-337-7155) within two (2) business days of the discovery of any information that gives it reason to believe it has been the victim of a

loss of \$200 or more as a result of any crime, fraud, misappropriation, embezzlement, or theft involving property, client funds, LSC funds, as well as non-LSC funds used for the provision of legal assistance; or when local, state, or Federal law enforcement officials are contacted by the program about a crime. It also will notify the OIG if it has been the victim of a theft of items such as credit cards, check stock, passwords, or electronic access codes, that could lead to a loss of \$200 or more. The required notice shall be provided regardless of whether the funds or property are recovered. Once it has determined that a reportable event has occurred, it agrees it will contact the OIG before conducting its own investigation into the occurrence.

16. It will notify the LSC Office of Compliance and Enforcement (OCE) within twenty (20) calendar days whenever:
 - (a) under the provisions of § 1006(f) of the LSC Act, 42 U.S.C. § 2996e(f), the Applicant receives any notice of a claim for attorneys' fees. The Applicant also will forward, upon receipt, a copy of the pleading requesting these attorneys' fees;
 - (b) any of the following events likely to have a substantial impact on its delivery of services occur:
 - (i) a monetary judgment, sanction or penalty has been entered against it;
 - (ii) it enters into a voluntary settlement of an action or matter which involves the payment of a monetary judgment, sanction or penalty;
 - (iii) it experiences a *force majeure* event.
17. It will maintain all records pertaining to the grant during the grant year and for such period(s) of time as prescribed by the Accounting Guide for LSC Recipients, Appendix II (2010 Edition) a period of six (6) years after expiration of the grant year. With respect to financial records, it will maintain originals (or digital images thereof unless otherwise required by applicable law) of all financial records and supporting documentation sufficient for LSC to audit and determine whether the costs incurred and billed are reasonable, allowable and necessary under the terms of the grant. LSC retains the right to perform an audit, or engage independent auditors to do so, whether during or subsequent to the grant period.
18. It will, in accordance with internal policies, retain and preserve closed client files for a period of not less than five (5) years from the date the file is closed or for the period set by Federal, state, or local rules on maintenance of records, whichever is longer.

19. In the event that the Applicant merges or consolidates with another LSC grantee, changes its current identity or status as a legal entity, or ceases to be a direct recipient of LSC grant funds at the end of the grant term or during the grant term for whatever reason, it agrees:
 - a. to provide the LSC Office of Program Performance (OPP) with written notice at least sixty (60) calendar days prior to any of the above events (except when the LSC grant relationship changes as a result of LSC action);
 - b. not to transfer its interests in its LSC grant to another entity without prior approval from LSC for such transfer, including submission to LSC and approval by LSC of a Successor in Interest Agreement;
 - c. to ensure that any successor entity maintains the Applicant's records, including financial records, for a period of six (6) years after expiration of the grant year to which they pertain and maintains client files for a period of not less than five (5) years after the closure of the case to which they pertain;
 - d. to submit to the LSC OPP, either at the time that it provides the written notice in (a) above, or within fifteen (15) calendar days from being notified by LSC that it will cease to be a recipient of LSC grant funds, a plan for the orderly conclusion of the role and responsibilities of the Applicant as a recipient of LSC funds. Detailed instructions for preparing this plan are at www.grants.lsc.gov under the title "Planning the Orderly Conclusion of the Role and Responsibilities of a Recipient of LSC Funds." Once at the website, click "RIN," then locate the instructions under "Grantee Guidance."
20. It agrees to cooperate with LSC in its efforts to follow up on audit findings, recommendations, significant deficiencies or material weaknesses, and corrective actions by LSC, including the OIG, or the GAO, and/or with the findings, recommendations or significant deficiencies or material weaknesses found by the Applicant's IPA to ensure that instances of deficiencies and noncompliance are resolved in a timely manner. It agrees to expeditiously resolve all such reported audit findings, significant deficiencies or material weaknesses, and corrective actions, including those of sub-recipients, to the satisfaction of LSC.

21. It will use the LSC logo on any Internet website page that may serve as a “homepage” for the Applicant, and on its Annual Report, press releases, and official letterhead, and may use the logo on other official documents such as business cards, newsletters, telephone directory listings or other advertisements or announcements about services provided by the Applicant and supported with LSC funds. It understands that the LSC logo is a registered service mark of LSC and that permission to use the logo is provided to Applicant under a limited license such that the logo may be used: (1) only while Applicant is receiving LSC funds; (2) only for the purposes described above; and (3) only in accordance with such size, format and color instructions as LSC provides. Other uses of the logo are not permitted unless expressly authorized in writing by LSC. Electronic and camera-ready versions of the logo are available at www.grants.lsc.gov. Once at the website, click “Resources,” then click “Reference Materials” to access the logo.

Name of Executive Director

Name of Governing/Policy Board Chairperson
(or other organization official authorizing this application)

Title

Title

Signature

Signature



**Proposed LSC Grant Assurances
for Calendar Year 2014 Funding**
“clean version without track changes”

If Applicant is successful and receives an LSC grant or contract,

APPLICANT HEREBY ASSURES THAT:

1. It will comply with the requirements of the Legal Services Corporation Act of 1974 as amended (LSC Act), any applicable appropriations acts and any other applicable law, rules, regulations, policies, guidelines, instructions, and other directives of the Legal Services Corporation (LSC), including, but not limited to, LSC Audit Guide for Recipients and Auditors, the Accounting Guide (2010 Edition), the CSR Handbook (2008 Edition, as amended 2011), the 1981 LSC Property Manual (as amended) and the Property Acquisition and Management Manual, and with any amendments of the foregoing adopted before or during the period of this grant. It will comply with both substantive and procedural requirements, including recordkeeping and reporting requirements. It understands that a successful Applicant may be required to agree to special grant conditions as a condition of receiving the grant. Multi-year grants must be renewed each year. Upon renewal, new terms and conditions may apply.
2. It agrees to be subject to all provisions of Federal law relating to the proper use of Federal funds listed in 45 C.F.R. § 1640.2(a)(1). It understands that if Applicant violates any Federal laws identified in 45 C.F.R. Part 1640, it may be subject to civil, criminal and/or administrative penalties. It represents that it has informed employees and board members of the Federal laws and their consequences both to the recipient and to themselves as individuals as required in 45 C.F.R. § 1640.3.
3. It agrees that all derivative income from these grant funds shall also be subject to the terms and conditions of this grant as authorized by 45 C.F.R. Part 1630.
4. It will not discriminate on the basis of race, color, religion, gender, age, disability, national origin, sexual orientation, or any other basis prohibited by law against: (1) any person applying for employment or employed by the Applicant; or (2) any person seeking or provided assistance from the Applicant or other program(s) supported in whole or in part by this grant. The governing body has adopted or will adopt in a timely manner Equal Opportunity and Sexual Harassment Policies, each of which must include an effective mechanism for processing complaints.

5. It will notify the LSC Office of Inspector General (OIG) within thirty (30) calendar days after replacement of the Independent Public Accountant (IPA), termination of the IPA, or any other occurrence resulting in a new IPA performing the grantee's annual financial audit. No audit costs may be charged to the LSC grant when the audit required has not been made in accordance with the guidance promulgated by the OIG. It understands that if it fails to have an audit acceptable to the OIG in accordance with the OIG's audit guidance (including the Audit Guide for Recipients and Auditors), LSC may impose sanctions in addition to those specified by statute, which are: (1) withholding of a percentage of the recipient's funding until the audit is completed satisfactorily; and (2) suspension of the recipient's funding until an acceptable audit is completed. Other possible sanctions that LSC may impose for not having an acceptable audit include special grant conditions and/or corrective actions.
6. It understands that Congress may reduce, rescind or sequester LSC funding or may impose additional requirements or restrictions on the use of LSC funding. An award of a grant under the competitive bidding process does not obligate LSC to disburse any funds that are not authorized or appropriated by Congress, nor preclude the imposition of additional Congressional requirements on any funds that are so disbursed. Such requirements or reductions as implemented by LSC shall not constitute a termination or suspension of funding.
7. It will provide legal services in accordance with the plans set out in its grant application, as modified in further negotiations with LSC, and agrees to provide high quality, economical, and effective legal assistance, as measured by the LSC Performance Criteria, ABA Standards for the Provision of Civil Legal Aid, ABA Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means, and consistent with any applicable code or rules of professional conduct, responsibilities, or ethics.
8. With respect to its office technology:
 - (a) it has an information security system that ensures confidentiality and security of its operations, assets, data, and files.
 - (b) it will conduct program-wide conflicts checking contemporaneously with intake using a case management system with an electronic database, including when intake is conducted outside its offices and contemporaneous access to the case management system is available.
 - (c) it has a plan for backing up case management data, financial data, documents and other critical data. It performs these backups at least weekly and checks their integrity by restoring test files. Further, it stores electronic or physical copies of these backups in a safe, offsite location.
 - (d) it has the capacity to convert paper documents into Portable Document Format (PDF) and the capacity to transmit those documents as electronic files.

- (e) each case handler has a computer at her or his work area that can perform all of the following functions: word processing, access to the case management system, access to time-keeping, access to the Internet, including the ability to download files from the Internet, and e-mail capability with the capacity to send and receive messages and attachments both internally and externally. It understands that the above functions describe the minimum functionality of existing computers only. It further agrees that any new computer, monitor, or printer purchased to perform the above functions will have a capacity to exceed the demands of current operating systems and software so that it can reasonably be expected to perform adequately with few upgrades for at least three years.
9. It will work with other LSC and non-LSC-funded legal services providers in the State to ensure that there is a statewide website that publishes a full range of relevant and up-to-date community legal education/pro se related materials and referral information, at least covering the common topics facing the client communities on the subject matters that are the Applicant's priorities. It will contribute to sustaining said website according to the plan for the development and maintenance of the website adopted by the statewide website Stakeholders Committee of which it will be a member. As a member of the Committee it will work to ensure that: 1) outreach is conducted for members of the client community to inform them of the website and about how to use it, 2) the website is periodically evaluated and updated for ease of use and accessibility to meet the needs of as many consumers as possible, and 3) the LSC logo is used on at least the homepage of the website (see Grant Assurance 21 for further instructions and clarification on terms of usage). If a Technology Initiative Grant (TIG) was awarded to start the website using either the LawHelp or Open Source template, it will maintain the scope of functionality of the template it was using, including the capability of having separate sections on the website for clients, legal services advocates, and pro bono attorneys; adhering to the "National Subject Matter Index"; and the ability to use the LawHelp interactive HotDocs server.
 10. During normal business hours and upon request, it will give any authorized representative of LSC, including the OIG, or the Comptroller General of the United States (which includes the Government Accountability Office (GAO)) access to and copies of all records that they are entitled to under the provisions of the LSC Act and other applicable laws. This requirement does not apply to any such materials that may be properly withheld due to applicable law or rules. It agrees to provide LSC with the requested materials in a form determined by LSC while, to the extent possible consistent with this requirement, preserving applicable client secrets and confidences and respecting the privacy rights of the Applicant's staff members. For those records subject to the attorney-client privilege, it will identify in writing the specific record(s) not being provided and the legal justification for not providing the record(s).
 11. Notwithstanding any other Grant Assurance, §1006(b)(3) of the LSC Act, 42 U.S.C. § 2996e(b)(3), or any state rule governing professional responsibility, it shall, upon request, provide access to and copies of financial records, time records, retainer

agreements, client trust fund and eligibility records, and client names, except for those reports or records that may be properly withheld due to applicable law governing attorney-client privilege, to LSC, including the OIG, and to any Federal department or agency that is auditing or monitoring the activities of LSC or of the Applicant and any independent auditor or monitor receiving Federal funds to conduct such auditing or monitoring, including any auditor or monitor of LSC. For those reports or records subject to the attorney-client privilege, it will identify in writing the specific record(s) not being provided and the legal justification for not providing the record. Any materials furnished pursuant to this Assurance shall be provided in a timely manner.

12. It will cooperate with all reasonable information collection, including surveys, questionnaires, monitoring, audits, investigations, and compliance or evaluation activities undertaken by LSC, including the OIG, or its agents. Such cooperation shall include making staff available to LSC, including the OIG, or its agents for interview and otherwise allowing staff to cooperate with the same. It understands that nothing in these Grant Assurances in any way restricts or limits the authority of the LSC OIG to access any and all records and information to which it is entitled under the Inspector General Act of 1978, as amended, 5 U.S.C. app. § 3. It will submit, for each year of the grant and for each service area for which a grant is awarded, Grant Activity Reports in a format and at a time determined by LSC.
13. It will not take or threaten to take any disciplinary or other retaliatory action against any person because of any appropriate cooperation with or the appropriate release of information to LSC, including the OIG, or other entity authorized to receive such cooperation or information pursuant to applicable procedures and consistent with any applicable law, code of ethics, or rule of professional responsibility. It will notify its employees and volunteers in writing that it will not take any disciplinary or other retaliatory action against an employee or volunteer (including board members) for any appropriate cooperation with LSC, including the OIG, or other entity authorized to receive such cooperation.
14. It will notify the LSC Office of Information Management within thirty (30) calendar days after any of the following occurrences that involve activities funded by the grant:
 - a. a decision to close and/or relocate any main or staffed branch office;
 - b. change of chairperson of the governing/policy body (including the new chairperson's name, telephone number, and e-mail address);
 - c. change of chief executive officer (including the new chief executive officer's name, telephone number, and e-mail address);
 - d. change in its charter, articles of incorporation, by-laws, or governing body structure; or
 - e. change in its main e-mail address or its website address (URL).
15. It will notify the LSC OIG Hotline (Telephone: 800-678-8868 or 202-295-1670; E-mail hotline@oig.lsc.gov; Fax 202-337-7155) within two (2) business days of the discovery of any information that gives it reason to believe it has been the victim of a

loss of \$200 or more as a result of any crime, fraud, misappropriation, embezzlement, or theft involving property, client funds, LSC funds, as well as non-LSC funds used for the provision of legal assistance; or when local, state, or Federal law enforcement officials are contacted by the program about a crime. It also will notify the OIG if it has been the victim of a theft of items such as credit cards, check stock, passwords, or electronic access codes, that could lead to a loss of \$200 or more. The required notice shall be provided regardless of whether the funds or property are recovered. Once it has determined that a reportable event has occurred, it agrees it will contact the OIG before conducting its own investigation into the occurrence.

16. It will notify the LSC Office of Compliance and Enforcement (OCE) within twenty (20) calendar days whenever:
 - (a) under the provisions of § 1006(f) of the LSC Act, 42 U.S.C. § 2996e(f), the Applicant receives any notice of a claim for attorneys' fees. The Applicant also will forward, upon receipt, a copy of the pleading requesting these attorneys' fees;
 - (b) any of the following events likely to have a substantial impact on its delivery of services occur:
 - (i) a monetary judgment, sanction or penalty has been entered against it;
 - (ii) it enters into a voluntary settlement of an action or matter which involves the payment of a monetary judgment, sanction or penalty;
 - (iii) it experiences a *force majeure* event.
17. It will maintain all records pertaining to the grant during the grant year and for such period(s) of time as prescribed by the Accounting Guide for LSC Recipients, Appendix II (2010 Edition) after expiration of the grant year. With respect to financial records, it will maintain originals (or digital images thereof unless otherwise required by applicable law) of all financial records and supporting documentation sufficient for LSC to audit and determine whether the costs incurred and billed are reasonable, allowable and necessary under the terms of the grant. LSC retains the right to perform an audit, or engage independent auditors to do so, whether during or subsequent to the grant period.
18. It will, in accordance with internal policies, retain and preserve closed client files for a period of not less than five (5) years from the date the file is closed or for the period set by Federal, state, or local rules on maintenance of records, whichever is longer.

19. In the event that the Applicant merges or consolidates with another LSC grantee, changes its current identity or status as a legal entity, or ceases to be a direct recipient of LSC grant funds at the end of the grant term or during the grant term for whatever reason, it agrees:
 - a. to provide the LSC Office of Program Performance (OPP) with written notice at least sixty (60) calendar days prior to any of the above events (except when the LSC grant relationship changes as a result of LSC action);
 - b. not to transfer its interests in its LSC grant to another entity without prior approval from LSC for such transfer, including submission to LSC and approval by LSC of a Successor in Interest Agreement;
 - c. to ensure that any successor entity maintains the Applicant's records, including financial records, for a period of six (6) years after expiration of the grant year to which they pertain and maintains client files for a period of not less than five (5) years after the closure of the case to which they pertain;
 - d. to submit to the LSC OPP, either at the time that it provides the written notice in (a) above, or within fifteen (15) calendar days from being notified by LSC that it will cease to be a recipient of LSC grant funds, a plan for the orderly conclusion of the role and responsibilities of the Applicant as a recipient of LSC funds. Detailed instructions for preparing this plan are at www.grants.lsc.gov under the title "Planning the Orderly Conclusion of the Role and Responsibilities of a Recipient of LSC Funds." Once at the website, click "RIN," then locate the instructions under "Grantee Guidance."
20. It agrees to cooperate with LSC in its efforts to follow up on audit findings, recommendations, significant deficiencies or material weaknesses, and corrective actions by LSC, including the OIG, or the GAO, and/or with the findings, recommendations or significant deficiencies or material weaknesses found by the Applicant's IPA to ensure that instances of deficiencies and noncompliance are resolved in a timely manner. It agrees to expeditiously resolve all such reported audit findings, significant deficiencies or material weaknesses, and corrective actions, including those of sub-recipients, to the satisfaction of LSC.

21. It will use the LSC logo on any Internet website page that may serve as a “homepage” for the Applicant, and on its Annual Report, press releases, and official letterhead, and may use the logo on other official documents such as business cards, newsletters, telephone directory listings or other advertisements or announcements about services provided by the Applicant and supported with LSC funds. It understands that the LSC logo is a registered service mark of LSC and that permission to use the logo is provided to Applicant under a limited license such that the logo may be used: (1) only while Applicant is receiving LSC funds; (2) only for the purposes described above; and (3) only in accordance with such size, format and color instructions as LSC provides. Other uses of the logo are not permitted unless expressly authorized in writing by LSC. Electronic and camera-ready versions of the logo are available at www.grants.lsc.gov. Once at the website, click “Resources,” then click “Reference Materials” to access the logo.

Name of Executive Director

Name of Governing/Policy Board Chairperson
(or other organization official authorizing this application)

Title

Title

Signature

Signature

VI. Promotion & Provision Committee

**PROMOTION AND PROVISION FOR THE DELIVERY OF
LEGAL SERVICES COMMITTEE**

July 22, 2013

Agenda

Open Session

1. Approval of Agenda
2. Approval of Minutes of the Committee's meeting of April 15, 2013
3. Discussion of Committee's charter
4. Presentation by Colorado Legal Services
 - Jon Asher, Executive Director
 - Patricia Craig, Administrator
Northwest Colorado Legal Services Project
 - Tina Smith, Client – Eligible Board Member, Board of Directors
5. Public comment
6. Consider and act on other business
7. Consider and act on motion to adjourn the meeting

Minutes of April 15, 2013 Meeting

**Legal Services Corporation
Meeting of the Promotion and Provision for the
Delivery of Legal Services Committee
Open Session**

Monday, April 15, 2013

Co-Chairs Father Pius Pietrzyk and Gloria Valencia-Weber convened an open session meeting of the Legal Services Corporation's ("LSC") Promotion for the Delivery of Legal Services Committee ("the Committee") at 10:15 a.m. on Monday, April 15, 2013. The meeting was held at the F. William McCalpin Conference Center, Legal Services Corporation, 3333 K Street, N.W. Washington, D.C. 20007.

The following Committee members were present:

Father Pius Pietrzyk, Co-Chair
Gloria Valencia-Weber, Co-Chair
Sharon L. Browne (by telephone)
Victor B. Maddox
Julie A. Reiskin
John G. Levi, *ex officio*

Other Board Members Present:

Robert J. Grey Jr.
Charles N.W. Keckler
Laurie Mikva
Martha L. Minow

Also attending were:

James J. Sandman	President
Patricia Stinneford	Executive Assistant to the President
Rebecca Fertig	Special Assistant to the President
Lynn Jennings	Vice President for Grants Management
Katherine Ward	Executive Assistant, Office of Legal Affairs
Richa Mathur	Law clerk, Office of Legal Affairs
David L. Richardson	Comptroller and Treasurer
David Maddox	Assistant Inspector General for Management and Evaluation, Office of the Inspector General
John Seeba	Director of Audit Operations/Administrative Officer, Office of the Inspector General
Daniel Sheahan	Program Evaluation Analyst, Office of the Inspector General
Magali Khalkho	Resource Management Specialist, Office of the Inspector General
Carol Bergman	Director, Office of Government Relations and Public Affairs
Marcos Navarro	Office of Government Relations and Public Affairs
Lora M. Rath	Deputy Director, Office of Compliance and Enforcement

David de la Tour	Program Counsel, Office of Compliance and Enforcement
Traci Higgins	Director, Office of Human Resources
Janet LaBella	Director, Office of Program Performance
Evora Thomas	Office of Program Performance
Peter Campbell	Chief Information Officer, Office of Information Management
LaVon Smith	Office of Information Management
Bristow Hardin	Program Analyst, Office of Information Technology
Robert E. Henley, Jr.	Non-Director Member, Finance Committee
Allan J. Tanenbaum	Non-Director Member, Finance Committee (General Counsel, Equicorp Partners)
Herbert S. Garten	Non-Director Member, Institutional Advancement Committee
Frank B. Strickland	Non-Director Member, Institutional Advancement Committee
Wendy Rhein	incoming Development Officer
Hannah Lieberman	Executive Director, Neighborhood Legal Services Program of Washington, D.C.
Nakia Waggoner	Neighborhood Legal Services Program of Washington, D.C.
Heather L. Hodges	Neighborhood Legal Services Program of Washington, D.C.
Mary Deutsch Schneider	Executive Director, Legal Services of Northwest Minnesota
Jeanne Philips-Roth	Associate Director for Client Services, Legal Services of Eastern Missouri
Raun J. Rasmussen	Executive Director, Legal Services NYC
Jonathan Asher	Executive Director, Colorado Legal Services
Chuck Greenfield	National Legal Aid and Defender Association (NLADA)
Don Saunders	National Legal Aid and Defenders Association (NLADA)
Terry Brooks	American Bar Association
Dominique Martin	Law99.com

The following summarizes actions taken by, and presentations made to, the Committee:

Committee Co-Chair Father Pius called the meeting to order.

MOTION

Ms. Reiskin moved to approve the agenda. Committee Co-Chair Professor Valencia-Weber seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Committee Co-Chair Professor Valencia-Weber moved to approve the minutes of the Committee's meeting of January 25, 2013. Ms. Reiskin and Ms. Browne seconded the motion.

VOTE

The motion passed by voice vote.

Committee Co-Chair Father Pius led the discussion of the Committee's evaluations for 2012 and the Committee's goals for 2013. Committee Co-Chair Professor Valencia-Weber suggested that the Committee review its charter and consider amending it as other committees have recently done.

Committee Co-Chair Professor Valencia-Weber introduced the first panel presentation on using legal needs assessments of low-income populations to set priorities for legal services programs, and she asked Ms. Labella, the panel moderator, to introduce the panelists. The panelists were Ms. Schneider, Executive Director, Legal Services of Northwest Minnesota; Ms. Philips-Roth, Associate Director of Client Services, Legal Services of Eastern Missouri; Ms. Lieberman, Executive Director, Neighborhood Legal Services Program of Washington, D.C. (NLSP); and Mr. Rasmussen, Executive Director, Legal Services of New York City. A brief recess was taken following the conclusion of the panel discussion.

Next, Ms. Lieberman led a presentation of the Neighborhood Legal Services Program of Washington, D.C. She introduced her colleagues, Ms. Waggoner and Ms. Hodges, who assisted with the panel presentation. The panel reported on the current status of NLSP, the local grantee in Washington D.C., NLSP's background and programs, and NLSP's challenges including the effects of sequestration.

Committee Co-Chair Professor Valencia-Weber invited public comments. Mr. Brooks provided a brief overview of the findings resulting from the ABA's most recent research on pro bono. There was no other business to consider.

MOTION

Committee Co-Chair Father Pius moved to adjourn the meeting. Ms. Reiskin seconded the motion.

VOTE

The motion passed by voice vote.

The meeting of the Committee adjourned at 12:53 p.m.

Committee Charter and Background Memo

**CHARTER OF THE
PROMOTION AND PROVISION
FOR THE DELIVERY OF LEGAL SERVICES COMMITTEE**

(Amended by the LSC Board of Directors on and effective as of July 30, 2010)

I. Purpose

The purposes of the Committee shall be to encourage continuous and ongoing improvement in the promotion and provision of legal services to the poor. To accomplish these purposes, the Committee shall have a broad mandate to review, discuss and make recommendations to the Board when appropriate, on all issues related to legal services delivery, including but not limited to special populations, delivery models and systems, and the role of private attorneys in the delivery of legal services to the poor.

II. Membership

The Chairman of the Board (“Chairman”) shall appoint at least three Directors to serve on the Committee and designate one to serve as its Chairman.

III. Meetings

The Committee:

- (1) shall meet at least four times per calendar year, but may meet more frequently at the call of the Committee’s Chairman or majority of the Committee’s membership;
- (2) may adopt procedural rules that are not inconsistent with this Charter, the Corporation’s Bylaws, or the laws to which the Corporation is subject.

IV. Resources

All offices, divisions, and components of the Corporation, including the Office of Inspector General (“OIG”), shall cooperate with all requests made by the Committee for information and support. The Committee shall be given the resources necessary to carry out its responsibilities.

V. Authority

The Committee:

- (1) shall have unrestricted access to the Corporation’s books, records, facilities, personnel, and outside consultant(s);
- (2) is authorized to carry out the duties and responsibilities described in this Charter, as well as any other activities reasonably related to the Committee’s

purposes or as may be directed by the Board from time to time;

- (3) may delegate authority to one or more designated members of the Committee;
- (4) may rely on the expertise and knowledge of Management, the OIG, and such consultants and experts that the Board approves for carrying out its responsibilities;
- (5) may authorize to be conducted, or itself conduct, reviews into any matters within the scope of its responsibilities; and
- (6) may request any person, including outside consultants or any officer or employee of the Corporation, to attend Committee meetings or to meet with any member(s) of or advisor(s) to the Committee.

VI. Duties and Responsibilities

The Committee:

CORE RESPONSIBILITIES

- (1) shall consider assisting the Board in implementing Section 1007(g) of the LSC Act by developing proposals for improvements in the promotion and provision of legal services to the poor;
- (2) shall consider recommending methods for achieving the most efficient and effective delivery of legal services;
- (3) shall consider assisting the Board in evaluating the performance of the delivery system;
- (4) shall consider addressing policy issues regarding grantee audits, including performance evaluations and compliance monitoring;
- (5) shall consider studying the special legal needs faced by certain groups;
- (6) shall consider addressing other issues regarding the type, quality, and method of delivering legal services;

OTHER RESPONSIBILITIES

- (7) shall regularly report Committee actions, and make recommendations the Committee deems appropriate, to the Board with respect to any matters the Committee deems necessary or appropriate;
- (8) shall perform such other duties and responsibilities, consistent with this Charter, delegated to the Committee by the Board;

SELF-EVALUATION

- (9) shall periodically assess the Committee's performance under the Charter, reassess the adequacy of the Charter, and report to the Board the results of the evaluation and any recommendations for proposed changes to the Charter.

MEMORANDUM

TO: Committee on Promotion and Provision for the Delivery of Legal Services

FROM: Victor M. Fortuno *VMF*
Vice President & General Counsel

DATE: May 13, 2013

SUBJ: History and functions/responsibilities of the Committee on Promotion and Provision for the Delivery of Legal Services

The Committee on *Promotion and Provision for the Delivery of Legal Services* was originally established as the Committee for *Provision for the Delivery of Legal Services* on November 7, 1975. It was one of the original three committees of the Board.¹ The other two were the *Committee on Appropriations and Audit* and the *Committee on Bylaws and Regulations*. In January of 2010, the Board changed the name of the Committee on *Provision for the Delivery of Legal Services* to the Committee on *Promotion and Provision for the Delivery of Legal Services* but, throughout this memo, I will simply refer to it as “the Committee.”

The original bylaws of the Corporation provided that committees would “perform such functions as [the Board] may from time to time designate[,]” and the current bylaws provide that “[t]he resolution creating any committee shall set out the authority, responsibility and limitations, if any, of such committee. Sec. 5.01(a)(3). The resolution that originally established

¹ Temporary Bylaws were adopted on August 5, 1975 (40 FR 33751, Aug. 11, 1975), and then adopted as final on November 7, 1975 (40 FR 52022, Nov. 7, 1975), and codified at 45 C.F.R. Part 1601. They provided that “[t]he Board may, by resolution of the majority of the Directors in office establish (and thereafter dissolve) such other executive, standing, or temporary committees as the Board may deem appropriate to perform such functions as it may from time to time designate.” 45 C.F.R. § 1601.26.

Since then, the Corporation’s Bylaws have been amended and, in 1994, the Board “remove[d] the bylaws . . . from the Code of Federal Regulations[.]” 59 FR 21666 (April 26, 1994). The current provision on establishment of committees appears at Section 5.01(a) of the Bylaws. The original bylaws provided that committees would “perform such functions as it may from time to time designate[,]” and the current bylaws provide that “[t]he resolution creating any committee shall set out the authority, responsibility and limitations, if any, of such committee.” Sec. 5.01(a)(3).

the Committee provided that it was “to assist the Board in implementing Section 1007(g) of the [LSC] Act and in developing proposals for improvements in the provision of legal services to the poor . . . [and that u]nless otherwise directed by the Board, the Committee shall terminate when the report required by Section 1007(g)^[2] is filed with the President of the United States and the Congress.”

The Sec. 1007(g) report, titled “The Delivery System Study: A Policy Report to the Congress and the President of the United States,” was issued in June of 1980. However, by resolution adopted in December of 1979, the Board had “authorize[d] the Committee on Appropriations and Audit, the Committee on Provision of Legal Services and the Committee on Operations to continue to perform their previously designated functions until relieved of these functions by resolution of the Board from a period of two years from this date.” Then, in March of 1982, the Board adopted a further resolution “retain[ing] the existing regular Committees on the Provision of Legal Services and on Appropriations and Audit and [. . . renaming] the existing Committee on Operations . . . the Committee on Operations and Regulations.”

Section I of the Committee’s current charter (which was adopted on April 26, 2008, in response to an August 2007 GAO report on LSC governance) provides that:

The purposes of the Committee shall be to encourage continuous and ongoing improvement in the promotion and provision of legal services to the poor. To accomplish these purposes, the Committee shall have a broad mandate to review, discuss and make recommendations to the Board when appropriate, on all issues related to legal services delivery, including but not limited to special populations, delivery models and systems, and the role of private attorneys in the delivery of legal services to the poor.³

Section VI sets forth the Committee’s “core responsibilities,” the first six of which are that the Committee:

² Section 1007(g), 42 U.S.C. § 2996f(g), provides that

[t]he Corporation shall provide for comprehensive, independent study of the existing staff-attorney program under [the LSC Act] and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare vouchers, prepaid legal insurance, and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress, not later than two years after the first meeting of the Board, concerning improvements, changes, or alternative methods for the economical and effective delivery of such services.

³ Section V.(2) further provides that the Committee “is authorized to carry out the duties and responsibilities described in this Charter, as well as any other activities reasonably related to the Committee’s purposes or as may be directed by the Board from time to time[.]”

- (1) shall consider assisting the Board in implementing Section 1007(g) of the LSC Act by developing proposals for improvements in the promotion and provision of legal services to the poor;
- (2) shall consider recommending methods for achieving the most efficient and effective delivery of legal services;
- (3) shall consider assisting the Board in evaluating the performance of the delivery system;
- (4) shall consider addressing policy issues regarding grantee audits, including performance evaluations and compliance monitoring;
- (5) shall consider studying the special legal needs faced by certain groups; [and]
- (6) shall consider addressing other issues regarding the type, quality, and method of delivering legal services;

That, then, is where things currently stand. If you have any questions or would like to be provided with any of the materials referred to in this memorandum, please let me know.

Colorado Legal Services Summary of Program Quality Report 2012



LEGAL SERVICES CORPORATION

Office of Program Performance

FINAL PROGRAM SUMMARY QUALITY REPORT

FOR

Colorado Legal Services

Recipient Number: 706060

October 15 - 19, 2012

Team Members:

Nancy Glickman, Program Counsel, LSC (Team Leader)

John Eidleman, Program Counsel, LSC

Tillie Lacayo, Program Counsel, LSC

Tim Watson, Program Counsel, LSC

Patrick (Mac) McIntyre, Temporary Employee

Cynthia G. Schneider, Temporary Employee

Carolyn Worrell, Temporary Employee

VISIT BACKGROUND

The Legal Services Corporation's (LSC) Office of Program Performance (OPP) conducted a program quality visit to Colorado Legal Services (CLS) from October 15 - 19, 2012. The team members on the visit were OPP program counsel Nancy Glickman (team leader), John Eidleman, Tillie Lacayo, and Tim Watson and temporary employees Patrick (Mac) McIntyre, Cynthia D. Schneider, and Carolyn Worrell.

Program Quality Visits are designed to evaluate whether LSC grantees are providing the highest quality legal services to eligible clients. In conducting the evaluation, OPP relies on the LSC Act and regulations, the LSC Performance Criteria, LSC Program Letters, and the ABA Standards for the Provision of Civil Legal Aid. The evaluation was organized to follow the four performance areas of the LSC Performance Criteria, which cover needs assessment and priority setting; engagement with the low-income community; legal work management and the legal work produced; and program management including board governance, leadership, technology, resource development, and coordination within the delivery system.

The team reviewed documents provided by the program including recent grant applications to LSC, technology and PAI plans, workforce analysis charts, case reports, and other service reports. The team also reviewed materials requested in advance of the visit, including documents relating to the program's intake, legal work, and case management policies and systems, advocates' writing samples, and the results of an online staff survey. While on site, the team visited ten CLS offices; Alamosa, Boulder County, Colorado Springs, Denver, Durango, Fort Collins, Grand Junction, Greeley, Pueblo, and Salida. The team spoke with staff from La Junta, Leadville, Frisco, and Hayden, by phone or in person at other offices. The team interviewed program leadership and administration, along with all attorneys and paralegals, and most administrative and support staff. The team also met in person or by phone with the program's board chair and several board members as well as judges and other members of the state justice community including representatives from the Colorado Access to Justice Commission and the Colorado Bar Association, various pro bono entities, and other state and local community organizations.

PROGRAM OVERVIEW

Colorado Legal Services was formed in 1999 as the result of the consolidation of the three Colorado LSC grantees. Its service area consists of the entire state of Colorado. Colorado is the eighth largest state in the continental U.S., with over 100,000 square miles, and is a mix of urban and rural communities. Urban areas include the Denver metropolitan area, which is comprised of six counties totaling more than two million residents, and El Paso County (encompassing Colorado Springs), with a population of more than 600,000. Other urban areas include the cities of Boulder, Fort Collins, Grand Junction, Greeley and Pueblo. There are also over 50 rural counties in Colorado, including areas that attract migrant, agricultural workers. According to the 2010 American Community Survey of the U.S. Census Bureau, in 2010 approximately 880,244 Colorado residents had incomes at or below 125% of the federal poverty level.

With a workforce of 104, including 45 attorneys, and 28 paralegals, CLS maintains 14 offices located throughout the state. Eleven are staffed with at least one attorney; the other three, staffed

by paralegals, serve as hubs for referral to pro bono and low-fee contract attorneys. The program serves the dispersed migrant farmworker population of Colorado through its Denver based migrant unit, which utilizes part-time outreach workers during the growing season. Low-income Native Americans residing on the two reservations located in remote Southwestern Colorado (Ute Mountain Ute Tribe; and the Southern Ute Tribe) are served through outreach efforts by CLS staff located in the Durango office.

During 2012, the program received a Basic Field Grant from LSC of \$3,248,934, a Migrant Grant of 139,891, and a Native American Grant of \$90,449. CLS is anticipating a significant upward census adjustment in its LSC funding based on the growth of its low income population. Despite losses in federal, state and IOLTA funding, CLS has managed to avoid layoffs through both attrition and close, creative collaboration with long time equal justice partners and other state stakeholders. LSC constitutes approximately 40% of the program's funding.

While LSC made a post-consolidation inquiry visit to CLS in 2002 and program engagement visits in 2007 and 2009, this was the first Program Quality Visit to the program.

SUMMARY OF FINDINGS

CLS has experienced leadership and staff that are equally dedicated to providing high quality legal services throughout the state of Colorado. The program engages in a multifaceted delivery system in its effort to address both present and emerging needs of Colorado's low income population. The program enjoys an excellent reputation among the bar, judiciary, state stakeholders, and community partners alike.

CLS recently completed a model comprehensive needs assessment that engendered a wide spectrum of input. In between such assessments, the program routinely recognizes emerging needs and develops strategies to address them. While CLS has not engaged in formal strategic planning since the 1999 statewide consolidation of programs, the initial plan still provides a blue print for it to follow.

CLS is close to finally realizing implementation of its long planned coordinated intake system by the installation of a unified program wide phone system. At present, intake varies among offices and each has its challenges. One point of commonality, however, is the often extended wait time between an applicant's first contact with the program and the receipt of services. Program staff are engaged in their communities and offices strive to reach the vulnerable populations within their service areas. Offices provide various forms of outreach and the program has well thought out limited English proficiency practices.

CLS has a dedicated and experienced advocacy staff that provides high quality legal services. They practice in a variety of forums and have achieved far-reaching benefits for their clients. While the program has well defined legal work management and supervision policies, they are not consistently practiced throughout the program and are in need of uniform enforcement. Similarly, the program's technological resources are not used to their full capability. Program advocates are offered valuable training opportunities and various supportive resources. While

Denver specialists are very responsive to field office requests for assistance, more proactive support would be of benefit to advocates throughout the program.

CLS has a highly successful PAI component that uses a variety of models. The program's migrant and Native American components also provide appropriate and quality assistance to their specialized clientele. All CLS advocates engage in other services on behalf of their clients as well as various activities that benefit the low income population as a whole.

CLS has an active and engaged board that appropriately exercises its oversight responsibilities. The program is the beneficiary of an experienced and highly respected long term director who inspires dedication throughout his staff. CLS has adopted a leadership succession plan and is encouraged to expand its development of new leaders, including introducing them to more internal and external leadership roles and relationships. Overall administration of the program appears to be handled in an effective manner by the program's experienced management team. CLS has an enviable and extremely successful collaborative resource development strategy involving various state stakeholders. CLS participates with these same stakeholders as well as numerous justice partners throughout Colorado in a successful integrated legal services delivery system.

Colorado Legal Services Panelist Bios

LSC Board Meeting—July 2013
Promotion and Provision for the Delivery of Legal Services Committee
Colorado Legal Services Program Presentation

Jonathan (Jon) Asher is the Executive Director of Colorado Legal Services, a position he has held since October 1999. Jon was formerly the Executive Director of the Legal Aid Society of Metropolitan Denver from December 1, 1980 until October 1, 1999 when the Legal Aid Society was consolidated with Colorado's two other federally funded programs - Colorado Rural Legal Services and Pikes Peak/Arkansas River Legal Aid - and became a single statewide program, Colorado Legal Services. Jon currently serves on the Colorado Judicial Advisory Council, appointed by the Chief Justice of the Colorado Supreme Court. He also is a member of the Colorado Access to Justice Commission and the Colorado Bar Association's Board of Governors. He currently is Chair of the Colorado Bar Association's Availability of Legal Services Committee.

He began his legal services career as a staff attorney with Colorado Rural Legal Services in Greeley, Colorado in August, 1971. Jon graduated from Harvard College and Harvard Law School.

Patricia Craig, since 1981, has served as Administrator of the Northwest Colorado Legal Services Project (NCLSP), a pro bono program of Colorado Legal Services. NCLSP has three offices (Frisco, Hayden, and Leadville) in northwest Colorado where referral to PAI attorneys is the primary mode of service delivery. Pat supervises the staff of two offices and also serves as Private Attorney Involvement (PAI) coordinator for Colorado Legal Services.

Her responsibilities include recruitment and supervision of volunteer attorneys and non-attorneys, coordination of training for volunteer attorneys and non-attorneys, retention and recognition activities for volunteers, preparation and monitoring of budgets, fundraising and grant management, development and distribution of legal information materials to the public, screening of applicants and referral to volunteer attorneys, and serving as liaison to three local Bar Associations. Ms. Craig also provides training, materials, and mentoring to CLS offices statewide concerning pro bono attorney involvement activities. She coordinates statewide bi-monthly pro bono coordinators' teleconferences, in cooperation with the Colorado Bar Association.

Patricia Craig received her B.A. in Sociology from Michigan State University.

Tina Smith is a client eligible member of the Colorado Legal Services Board of Directors and has been on the board for many years. She has most recently been appointed to the board by the All Families Deserve a Chance (AFDC) Coalition. She is currently Vice Chair of the Board and serves on the Finance and Audit Committee, the Policies and Regulations Committee; and she chairs the Priorities and Long Range Planning Committee.

Tina is a former Montessori preschool teacher and is currently attending the Community College of Denver pursuing an associate degree in Early Childhood Education. She has been active in education issues in the Denver Metropolitan area for many years.

Tina Smith has lived in Colorado since 1967 and has an adult daughter.

VII. Governance & Performance Committee

GOVERNANCE AND PERFORMANCE REVIEW COMMITTEE

July 22, 2013

Agenda

OPEN SESSION

1. Approval of agenda
2. Approval of minutes of the Committee's meeting of April 14, 2013
3. Report on progress in implementing GAO recommendations
4. Recommendation to Committee on Board evaluations
 - Presentation by Carol Bergman
5. Report on Public Welfare Foundation grant and LSC research agenda
 - Presentation by Jim Sandman
6. Consider and act on amending the LSC Bylaws to include a Temporary Recess Provision for Committees
 - Presentation by Ron Flagg
7. Consider and act on resolution to appoint a new Ethics Officer
 - Presentation by Jim Sandman
8. Consider and act on other business
9. Public comment
10. Consider and act on motion to adjourn meeting

Minutes of April 14, 2013 Meeting

**Legal Services Corporation
Meeting of the Governance and Performance Review Committee
Open Session**

Sunday, April 14, 2013

Chair Martha L. Minow convened an open session meeting of the Legal Services Corporation's ("LSC") Governance and Performance Review Committee ("the Committee") at 4:07 p.m. on Sunday, April 14, 2013. The meeting was held at the F. William McCalpin Conference Center, Legal Services Corporation, 3333 K Street, N.W. Washington, D.C. 20007.

The following Committee members were present:

Martha L. Minow, Chair
Sharon L. Browne (by telephone)
Charles N.W. Keckler
Julie A. Reiskin
John G. Levi, *ex officio*

Other Board members present:

Robert J. Grey Jr.
Laurie Mikva
Father Pius Pietrzyk
Gloria Valencia-Weber

Also attending were:

James J. Sandman	President
Lynn Jennings	Vice President for Grants Management
Rebecca Fertig	Special Assistant to the President
Victor M. Fortunato	Vice President for Legal Affairs, General Counsel, and Corporate Secretary
Mark Freedman	Senior Assistant General Counsel, Office of Legal Affairs
Atitaya Rok	Staff Attorney, Office of Legal Affairs
Katherine Ward	Executive Assistant, Office of Legal Affairs
David L. Richardson	Comptroller and Treasurer
Jeffrey E. Schanz	Inspector General
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, OIG
Thomas Coogan	Assistant Inspector General for Investigations, OIG
David Maddox	Assistant Inspector General for Management and Evaluation, OIG
Carol Bergman	Director, Office of Government Relations and Public Affairs (GRPA)
Carl Rauscher	Director of Media Relations, Office of Government Relations and Public Affairs
Lora M. Rath	Deputy Director, Office of Compliance and Enforcement
LaVon Smith	Office of Information Management
Eric Jones	Office of Information Management

Allan J. Tanenbaum	Non-Director Member, Finance Committee
Chuck Greenfield	National Legal Aid and Defender Association (NLADA)
Don Saunders	NLADA
Terry Brooks	American Bar Association
Dominique Martin	Law99.com

The following summarizes actions taken by, and presentations made to, the Committee:

Committee Chair Dean Minow noted the presence of a quorum and called the meeting of the Committee to order.

MOTION

Mr. Levi moved to approve the agenda. Ms. Reiskin seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Mr. Keckler moved to approve the minutes of the Committee's meeting of January 26, 2013. Ms. Reiskin seconded the motion.

VOTE

The motion passed by voice vote.

Ms. Bergman presented a report on LSC's progress in implementing GAO recommendations. She answered Committee members' questions.

Next, President Sandman gave a report on the Public Welfare Foundation grant and LSC's research agenda, and he presented related materials to the Committee. He then reported on the evaluation of LSC's Comptroller, Mr. Richardson.

Committee Chair Dean Minow invited public comments and received none. There was no new business to consider.

MOTION

Mr. Keckler moved to adjourn the meeting. Mr. Levi seconded the motion.

VOTE

The motion passed by voice vote.

The meeting of the Committee adjourned at 4:55 p.m.

GAO 2010 Report Tracking Document

**Status of GAO Recommendations from June 2010 Report
 “Improvements Needed in Controls over Grant Awards & Grantee Program Effectiveness”**

#	Grant Application Processing and Award	Date Document ation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
1	Develop and implement procedures to provide a complete record of all data used, discussions held, and decisions made on grant applications.	<p>June 2010</p> <p>August 2010</p> <p>June 2010</p>	<p>Real time observation of LSC Grants</p> <p>Real time observation of LSC Grants</p> <p>Real time observation of LSC Grants</p>	<p>Changes to the LSC Grants software program have been implemented and include:</p> <ul style="list-style-type: none"> • The home page of the LSC Grants review module has been revised to include a listing of grant documents that must be reviewed (if applicable). The final page of the review module requires the reviewer to certify, by entering the reviewer’s name, that all applicable grant documents have been reviewed in completing the grant application evaluation. • LSC grants includes a page for OPP management to use in certifying the meeting(s) held with staff reviewers to discuss data used in the evaluation process, the reviewer’s recommendations, and management’s final funding recommendation for the grant applicant. • The evaluation module of LSC grants is modified to designate certain reviewer data fields as required, which prohibits a reviewer from submitting an application evaluation that is incomplete. As an example, the field that reviewers use to certify that all required grant documents have been reviewed is a required field. Also, data fields linked to particular responses provided in other data fields are designated as required fields. 	Closed by GAO on 3.15.13.

#	Grant Application Processing and Award	Date Document ation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
2	Develop and implement procedures to carry out and document management's review and approval of the grant evaluation and award decisions.	December 2010	Real time observation of LSC Grants	<p>The following changes were incorporated for the 2011 grant decision cycle:</p> <p>LSC grants has been revised to include a page for the LSC Vice President for Programs and Compliance and a page for the LSC President to use in certifying the meeting(s) held with OPP and OCE management to discuss the evaluation process, and OPP and OCE management recommendations.</p> <ul style="list-style-type: none"> The Vice President's page includes a funding recommendation for the grant Applicant and the President's page includes a line for certifying the funding decision for each Applicant. Funding decisions were completed in December 2010. 	Closed by GAO on 3.15.13.
3	Conduct and document a risk-based assessment of the adequacy of internal control of the grant evaluation and award and monitoring process from the point that the Request for Proposal is created through award, and grantee selection.	Ongoing.	Documentation of the risk based internal control assessment of the process and any related risk remediation efforts.	<p>LSC has engaged an outside expert to develop and perform a full evaluation and assessment of the competitive grants process.</p> <p>This includes conducting a risk-based assessment of the internal control of the grant evaluation, award, and monitoring process; recommendations of additional internal control options; recommendations for maximizing information reporting capabilities; and a report on internal controls and options implemented.</p>	Closed by GAO on 3.15.13.
4	Conduct and document a cost benefit assessment of improving the effectiveness of application controls in LSC Grants such that the system's information capabilities could be utilized to a greater extent in the grantee application evaluation and decision-making process.	November 2010	<p>Cost benefits assessment.</p> <p>Real time observation of the required fields, certs etc. in LSC Grants</p> <p>Evidence of the continuous internal evaluation by staff.</p>	<p>LSC implemented the use of the required fields, certifications required by reviewers documenting the review process, and certifications by management and the Executive Office documenting the process for reaching final funding recommendations and funding decisions.</p> <p>LSC Grants will undergo a continuous internal evaluation by staff and management to assess the effectiveness of the control features implemented, and consider additional control feature options.</p>	Per the GAO's request, LSC provided a memo documenting the changes it has made to LSC Grants and the cost-benefit of improving the system internally, rather than purchasing a new, external system. The GAO is satisfied with LSC's implementation efforts and considers the recommendation closed. The GAO online tracking system will be updated to reflect this change by the end of July.

#	Grant Application Processing and Award	Date Document ation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
Grantee Oversight Activities					
5	Develop and implement procedures to ensure that grantee site visit selection risk criteria are consistently used and to provide for summarizing results by grantee.	August 16, 2010	Evidence of outside labor counsel review and implementation.	OPP and OCE Manuals have been revised to include risk criteria for selecting grantee site visit. Also, both offices have developed summarized results of the selection process by grantee. Outside labor counsel has reviewed LSC's response.	On April 19, LSC had a teleconference with GAO to discuss LSC's implementation of the visit selection risk-based assessment criteria appearing in the OCE and OPP Manuals. At the conclusion of the meeting, GAO requested a written memo of LSC's implementation activities for its records. LSC submitted this memo in May. The GAO had additional questions, which were fully addressed in a second teleconference on June 28. GAO will need to review LSC's implementation before formally closing the recommendation, but is appears satisfied with LSC's approach thus far.
6	Establish and implement procedures to monitor OCE grantee site visit report completion against the 120 day time frame provided in the OCE Procedures Manual.	April 2012	Evidence of outside labor counsel review and implementation.	OCE has developed an annual tracking document that includes comprehensive information on grantee site visits, and reporting date and issuance (OCE/OPP combined visit list). Outside labor counsel has reviewed LSC's response.	Closed by GAO on 3.15.13.
7	Execute a study to determine an appropriate standard timeframe for OLA opinions to be developed and issued. Develop and implement procedures to monitor completion of OLA opinions related to OCE site visits against the target time frame for issuing opinions.	August 20, 2010	Copy of study and new OLA Opinions Protocol. Also, evidence of implementation of the new protocol.	Office of Legal Affairs (OLA) issued a new Opinions Protocol that sets forth the procedures and processes to be followed in the development and issuance of both Advisory and Internal Opinions. As part of this effort, OLA implemented appropriate timeframes for response to requests for opinions.	Closed by GAO on 3.15.13.

#	Grant Application Processing and Award	Date Document ation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
8	Develop and implement procedures to provide a centralized tracking system for LSC's recommendations to grantees identified during grantee site visits and the status of grantees' corrective actions.	August 2011	Evidence of procedures and implementation of the centralized tracking system for LSC recommendations.	Both OPP and OCE currently monitor recommendations and corrective actions through separate processes in each office. LSC has implemented a method of monitoring the status of top tier recommendations from OPP program quality visits in LSC Grants. The system requires grantees to discuss the status of the implementation of the report recommendations in their annual competition or renewal applications.	Closed by GAO on 3.15.13.
Performance Management					
9	Develop and implement procedures to link performance measures (1) to specific offices and their core functions and activities, and (2) to LSC's strategic goals and objectives.	Ongoing	Evidence of procedures and sustainable implementation.	<p>The LSC Board of Directors has developed a new strategic plan for the Corporation which will include linking performance measures to LSC's strategic goals and objectives.</p> <p>LSC is in process of revising its employee performance evaluation system and currently reviewing all position descriptions to link to strategic goals and objectives. Revisions will be discussed with the union.</p>	<p>LSC is actively developing, in conjunction with its employee union, a comprehensive performance management system.</p> <p>To assist in developing the new system, LSC issued a Job Analysis Questionnaire (JAQ) to all staff. Management is updating position descriptions and will tie them to the Strategic Plan adopted by LSC's Board in October 2012, to identify the competencies required for each position, and to develop appropriate performance measures.</p>
10	Develop and implement procedures for periodically assessing performance measures to ensure they are up-to-date.	Ongoing	Evidence of implementation.	LSC will develop and implement procedures to periodically assess performance measures after a new strategic plan is finalized.	LSC is in the process of developing, in conjunction with its employee union, a comprehensive performance management system. The proposal is expected to include, consistent with the Strategic Plan adopted by the LSC Board in October 2012, procedures for periodically assessing performance measures.
Staffing Needs Assessment					
11	Develop and implement procedures to provide for assessing all LSC component staffing needs in relation to LSC's strategic and strategic human capital plans.	Ongoing	Evidence of procedures and their sustainable implementation.	LSC will develop and implement a human capital plan consistent with the new strategic goals the Board adopts.	In July 2012, LSC issued a Job Analysis Questionnaire to all staff. Management is using the responses to update position descriptions, identify the competencies required for each position, and develop appropriate performance measures. In the fall of 2012, senior management surveyed mid-level managers to gauge their staffing needs. Management has analyzed the

#	Grant Application Processing and Award	Date Documentation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
					results of these surveys and is in the process of developing a human capital plan that is tied to the Corporation's Strategic Plan, adopted by the LSC Board in October. In March 2013, LSC hired a Human Capital Manager whose job responsibilities include overseeing the performance management system.
12	Develop and implement a mechanism to ensure that all LSC staff receives annual performance assessments.	Ongoing	Evidence of procedures and their sustainable implementation e.g., most recent actual performance assessments for all OPP and OCE employees. Also list of OPP and OCE staff on board at time of performance assessment cycle.	LSC is in the process of developing a new performance appraisal system and aims to conduct staff performance assessments covering 2012. Since the GAO requires two consecutive years of performance appraisals to close out the recommendation, expected completion date 2015.	LSC is actively developing, in conjunction with its employee union, a comprehensive performance management system.
Budget Controls					
13	Develop and implement a process to monitor contract approvals to ensure that all proposed contracts are properly approved before award.	October 2009	Evidence of process design and implementation.	Recommendation completed. LSC implemented new Administrative Manual procedures to better monitor contract approvals and ensure that funds are available and all contracts receive appropriate approvals prior to issuance. This policy and practice was in place prior to GAO's completing their fieldwork for this report, and a review of LSC's practices since October 1, 2009 will show that the procedures are being followed and all contracts are now being properly approved.	Closed by GAO on 10.13.2011.

#	Grant Application Processing and Award	Date Document ation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
14	Develop and implement procedures for contracts at or above established policy thresholds, to ensure the LSC President provides written approval in accordance with policy before contract award.	October 2009	Evidence of procedures and their implementation.	<p>Recommendation completed. LSC implemented new Administrative Manual procedures to better monitor contract approvals and ensure that funds are available and all contracts receive appropriate approvals prior to issuance.</p> <p>This policy and practice was in place prior to GAO's completing their fieldwork for this report, and a review of LSC's practices since October 1, 2009 will show that the procedures are being followed and all contracts are now being properly approved.</p>	Closed by GAO on 10.13.2011.
15	Develop and implement procedures to ensure budget funds are available for all contract proposals before contracts are awarded.	October 2009	Evidence of sustainable implementation.	<p>Recommendation completed. LSC implemented new Administrative Manual procedures to better monitor contract approvals and ensure that funds are available and all contracts receive appropriate approvals prior to issuance.</p> <p>This policy and practice was in place prior to GAO's completing their fieldwork for this report, and a review of LSC's practices since October 1, 2009 will show that the procedures are being followed and all contracts are now being properly approved.</p>	Closed by GAO on 10.13.2011.
Internal Control Environment					
16	Develop and implement procedures for providing and periodically updating training for LSC management and staff on applicable internal controls necessary to effectively carry out LSC's grant award and grantee performance oversight responsibilities.	Ongoing	Evidence demonstrating implementation of procedures for providing and periodically updating training for LSC management and staff on applicable internal controls necessary to effectively carry out LSC's grant award and grantee performance oversight.	<p>LSC developed training procedures for LSC management and staff regarding internal controls to carry out grant award competition and grantee oversight responsibilities.</p> <p>LSC management received first of a 3-part training series on this topic on September 6, 2012. Second session scheduled for October.</p>	Closed by GAO on 10.13.2011.

#	Grant Application Processing and Award	Date Document ation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
17	Establish a mechanism to monitor progress in taking corrective actions to address recommendations related to improving LSC grants award, evaluation, and monitoring.	October 2010	Evidence of implementation of the monitoring of corrective actions taken to address recommendations related to improving LSC grant award.	LSC has established a formal process to monitor and track actions taken by LSC in response to recommendations from the Government Accountability Office. This written procedure identifies the Office of Government Relations and Public Affairs as the office responsible for maintaining the tracking system and includes quarterly reporting on the status of any remediation efforts to the Board of Directors.	July 2013: Closed by GAO on 10.13.2011.

Total Number of Recommendations: 17

Total Number Closed: 12

Total Number in Process of Closure by GAO: 1

Total Number of Open Items: 5

Draft Evaluation Documents



DRAFT REVISED EVALUATION FORMS – PLEASE SUBMIT EDITS TO CAROL BY AUGUST 30TH.

Legal Services Corporation

Board of Directors Board-Evaluation*

*Adapted from a form written by Carter McNamara, MBA, PhD, Authenticity Consulting, LLC. Copyright 1997-2008. Field Guide to Developing and Operating Your Nonprofit Board of Directors.

November 2013

Your Name _____ Date _____

Please indicate your level of agreement or disagree with the following statements:

Use the following scale: 1=Strongly Agree; 2=Agree; 3=Disagree; 4=Strongly Disagree

1. The Board has a full and common understanding of the roles and responsibilities of the Board.
Comments:

2. Board members understand LSC's mission and procedures.
Comments:

3. The structural pattern of LSC's governance (Board, Committees, President, Officers, and staff) is clear.
Comments:

4. The Board has clear goals and measurements resulting from relevant and realistic strategic planning.
Comments:

5. The Board receives regular and timely reports on finances, budgets, program performance, grantee issues, and other important matters.
Comments:

6. The Board provides input to and annually approves the budget request to Congress.
Comments:

7. The Board effectively represents LSC to the community.
Comments:

8. The Board meetings facilitate focus and progress on important organizational matters.
Comments:

9. The Board regularly monitors and evaluates progress toward strategic goals and program performance.
Comments:

10. The Board has an adequate opportunity to evaluate the LSC President annually.
Comments:

11. The Board has an adequate opportunity to evaluate the LSC Inspector General annually.
Comments:

12. Board adheres to standards of ethics and conduct.

Comments:

13. In general, the members of the Board are involved and interested in the Board's work.

Comments:

14. Board members possess the skills and knowledge to carry out their duties.

Comments:

Please list three to five areas/issues on which you believe the board should focus its attention in the next year.
(Please be as specific as possible.)

1.

2.

3.

4.

5.

Self-Evaluation

- | | Yes | No |
|--|-----------------------|-----------------------|
| 1. Do I understand LSC's mission? | <input type="radio"/> | <input type="radio"/> |
| 2. Am I knowledgeable about LSC's programs and services? | | |
| 3. Do I follow trends and important developments related to LSC? | <input type="radio"/> | <input type="radio"/> |
| 4. Do I read and understand LSC's financial statements? | | |
| 5. Do I have a good working relationship with the LSC Board Chair? | <input type="radio"/> | <input type="radio"/> |
| 6. Do I have a good working relationship with the LSC President? | | |
| 7. Do I prepare for and participate in board meetings and committee meetings? | <input type="radio"/> | <input type="radio"/> |
| 8. Do I act as a goodwill ambassador for LSC in my community? | | |
| 9. Do I find serving on the Board to be a satisfying and rewarding experience? | <input type="radio"/> | <input type="radio"/> |

What factors contributed to my performance or lack of performance in the areas above? (Please be specific.)

What would I need to maintain/increase my level of board commitment?

Other comments or suggestions that will help the board increase its effectiveness.



DRAFT REVISED EVALUATION FORMS – PLEASE SUBMIT EDITS TO CAROL BY AUGUST 30TH.

Legal Services Corporation

Board of Directors Committee Protocols & Evaluation*

*Based on the General Board Committee Protocols of the American Red Cross Board of Governors, 2009

November 2013

Roles and Responsibilities of Committee Chairs

It is the responsibility of committee chairs to:

- Work with the Board leadership, members, and LSC management to develop meeting agendas to assure appropriate agenda items for each committee meeting and sufficient time on the agenda for thorough review and discussion;
- Annually, in conjunction with committee membership and the committee liaison, set a schedule of agenda subjects to be discussed for the ensuing year;
- Annually, assure that committees conduct self-evaluations;
- Annually, develop specific measurable targets and objectives for conducting committee self-evaluations;
- Coordinate with the LSC President to determine appropriate LSC staff or consultants to attend meetings;
- Set and communicate policies regarding meeting participation and attendance by both Board members and management;
- Work with management to develop appropriate communication practices;
- Regularly inform the Chairman of the Board and full Board about matters of significant strategic and financial importance that come before committees;
- Communicate any concerns regarding Board or management conduct directly and promptly to the Chairman of the Board; and
- Keep meetings focused and on schedule.

Committee Meetings

- Meetings should consist of high-level analyses and address only matters of strategic importance to the committee or the Legal Services Corporation.
- Committee Chairs, in consultation with the Chairman of the Board and members of committees, will determine the frequency and length of committee meetings.
- Committee meetings will be conducted in full accordance with the Government in the Sunshine Act [5 U.S.C. 552(b)].
- Closed committee sessions will be scheduled when necessary, in accordance with applicable laws and regulations and in full consultation with the LSC General Counsel.

Continued

Committee Meeting Materials

- Meeting materials should consist of high-level analyses and address only matters of strategic importance to the committee or the Legal Services Corporation.
- Meeting materials will be sent to committee members and the full Board no later than 7 days in advance of a meeting.

Roles and Responsibilities of Committee Members

It is the responsibility of committee members to:

- Read all materials prior to attending a meeting to conserve meeting time and focus discussion on questions or comments committee members have about the materials.
- Coordinate requests for more information on and questions regarding meeting materials with committee chairs.
- Consult with the committee chairs regarding committee members' trips or visits to LSC programs or headquarters on the behalf of the committee. (Note that Board travel must be approved by the Corporate Secretary.)

Roles and Responsibilities of Committees

Each committee will:

- Maintain an accurate committee charter which outlines the committee's duties, responsibilities, and procedures.
- Review its committee charter annually.
- Any recommendation for changes/improvements to the charter will be voted on by the committee and, if approved, forwarded to the full Board for approval.
- Annually, conduct an evaluation of its performance and report findings to the Governance and Performance Review Committee. The evaluation should include the annual review of the committee charter, and the committee members' evaluations.
- To protect the confidentiality of individual committee members, the self-evaluations may be completed without identification and only aggregate committee scores will be reported to the Governance and Performance Review Committee.

Time and Location of Meetings

8. Our committee meetings are held regularly and with appropriate frequency.

- 1 2 3 4
Strongly Agree Strongly Disagree

Comments:

9. Our committee meetings begin and end as scheduled.

- 1 2 3 4
Strongly Agree Strongly Disagree

Comments:

10. The length of our committee meetings is appropriate and respectful of the agenda.

- 1 2 3 4
Strongly Agree Strongly Disagree

Comments:

11. We receive the meeting agenda and materials sufficiently in advance of the meeting to allow for appropriate review and preparation.

- 1 2 3 4
Strongly Agree Strongly Disagree

Comments:

12. We consistently use our meeting time well. Issues get the time and attention proportionate to their importance.

- 1 2 3 4
Strongly Agree Strongly Disagree

Comments:

Attendance

13. Attendance at our meetings is consistent and members arrive on time.

- 1 2 3 4
Strongly Agree Strongly Disagree

Comments:

Recording/Minutes

14. The minutes of our meetings are accurate and reflect the discussion, next steps and/or action items articulated by the members.

- 1 2 3 4
Strongly Agree Strongly Disagree

Comments:

Amendment to the LSC Bylaws

OFFICE OF LEGAL AFFAIRS

MEMORANDUM

TO: Governance & Performance Review Committee

FROM: Ronald S. Flagg, Vice President & General Counsel
Atitaya C. Rok, Staff Attorney

DATE: June 25, 2013

SUBJECT: Proposed Amendment to the LSC Bylaws to Include a Temporary Recess
Provision for Committee Meetings

This memorandum addresses a proposed amendment to the LSC Bylaws to Board committees to recess their meetings to a future date.

Article IV, Section 4.06(b) of the LSC Bylaws, which governs meetings of the Board of Directors, provides that Board meetings may be temporarily recessed:

A majority of the Directors present at a duly convened meeting, whether or not they comprise a quorum, may temporarily recess the meeting. Whenever a meeting is temporarily recessed to a date not more than five (5) business days following such recess, it shall not be necessary to give any notice of the recessed meeting or of the business to be transacted thereat otherwise than by an announcement at the meeting at which such recess is taken.

By contrast, Article V, Section 5.02 of the Bylaws, which governs meetings of Board committees, does not contain a comparable recess provision. Because the recess provision is not explicitly addressed, in contrast to other procedural requirements for committee meetings (*e.g.*, notice and waiver of notice, public announcement, and closure of committee meetings), there is ambiguity as to whether the recess provision of the Board is intended to apply to committee meetings as well.

The Government in the Sunshine Act, 5 U.S.C. § 552b (“Sunshine Act”), is silent on recessing board or committee meetings. *See* Richard K. Berg et al., An Interpretive Guide to the Government in the Sunshine Act, 137 (ABA Section of Administrative Law and Regulatory Practice, 2nd ed. 2005). Likewise, LSC’s Sunshine Act regulation, 45 C.F.R. Part 1622, does not address recessing LSC Board or committee meetings, giving the Corporation flexibility on this issue.

To resolve the ambiguity in the Bylaws, we propose amending Article V, Section 5.02 as follows, to conform the committee procedures to the Board procedures by explicitly including a temporary recess provision for committee meetings:

(f) A majority of the committee members present at a duly convened meeting, whether or not they comprise a quorum, may temporarily recess the meeting. Whenever a meeting is temporarily recessed to a date not more than five (5) business days following such recess, it shall not be necessary to give any notice of the recessed meeting or of the business to be transacted thereat otherwise than by an announcement at the meeting at which such recess is taken.

Such an amendment, like the current bylaw provision for Board meetings, is consistent with the Sunshine Act and LSC's regulation at 45 C.F.R. Part 1622.



BOARD OF DIRECTORS

Legal Services Corporation
America's Partner For Equal Justice

RESOLUTION

AMENDING THE LSC BYLAWS TO INCLUDE A TEMPORARY RECESS PROVISION FOR COMMITTEE MEETINGS

WHEREAS, section 4.06(b) of the Legal Services Corporation (“LSC” or “Corporation”) Bylaws, which governs meetings of the Board of Directors, provides

[a] majority of the committee members present at a duly convened meeting, whether or not they comprise a quorum, may temporarily recess the meeting. Whenever a meeting is temporarily recessed to a date not more than five (5) business days following such recess, it shall not be necessary to give any notice of the recessed meeting or of the business to be transacted thereat otherwise than by an announcement at the meeting at which such recess is taken; and

WHEREAS, section 5.02 of the LSC Bylaws, which governs meetings of Board committees, does not contain a comparable temporary recess provision; and

WHEREAS, amending the LSC Bylaws to include a temporary recess provision for committee meetings, comparable to the current LSC Bylaw provision for Board meetings, is consistent with the Government in the Sunshine Act;

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Directors adopts the attached amendment to its Bylaws adding a temporary recess provision to the committee procedures under section 5.02.

Adopted by the Board of Directors
On July 23, 2013

John G. Levi
Chairman

Attest:

Ronald S. Flagg
*Vice President for Legal Affairs,
General Counsel & Corporate Secretary*

Amendment to LSC Bylaws

Article V, Section 5.02 Committee Procedures is amended by adding:

(f) A majority of the committee members present at a duly convened meeting, whether or not they comprise a quorum, may temporarily recess the meeting. Whenever a meeting is temporarily recessed to a date not more than five (5) business days following such recess, it shall not be necessary to give any notice of the recessed meeting or of the business to be transacted thereat otherwise than by an announcement at the meeting at which such recess is taken.

Ethics Officer - Resolution



BOARD OF DIRECTORS

RESOLUTION

REGARDING NEW ETHICS OFFICER DESIGNATION

WHEREAS, by Resolution # 2012-009, the Legal Services Corporation (“LSC” or “Corporation”) Board of Directors (“Board”) designated Richard Sloane, Chief of Staff and Special Assistant to the President, to serve as Ethics Officer for the Corporation, but not for the Office of Inspector General (“OIG”); and

WHEREAS, the Board has determined to designate a new Ethics Officer for the Corporation, but not for the OIG;

NOW, THEREFORE, BE IT RESOLVED THAT, effective immediately, Ronald Flagg, Vice President for Legal Affairs, General Counsel, and Corporate Secretary, shall serve as Ethics Officer for the Corporation, but not for the OIG, in substitution for Mr. Sloane; and

BE IT FURTHER RESOLVED that the Board expresses its appreciation to Mr. Sloane for his service as Ethics Officer.

Adopted by the Board of Directors
On July 23, 2013

John G. Levi
Chairman

Attest:

Ronald S. Flagg
*Vice President for Legal Affairs,
General Counsel & Corporate Secretary*

VIII. Board of Directors

BOARD OF DIRECTORS

July 23, 2013

Agenda

OPEN SESSION

- 1. Pledge of Allegiance**
- 2. Approval of agenda**
- 3. Approval of minutes of the Board's meeting of April 16, 2013**
- 4. Approval of minutes of the Board's telephonic meeting of May 21, 2013**
- 5. Chairman's Report**
- 6. Members' Reports**
- 7. President's Report**
- 8. Inspector General's Report**
- 9. Report on implementation of recommendations of the Pro Bono Task Force**
- 10. Consider and act on the report of the Promotion and Provision for the Delivery of Legal Services Committee**
- 11. Consider and act on the report of the Finance Committee**
- 12. Consider and act on the report of the Audit Committee**
- 13. Consider and act on the report of the Operations and Regulations Committee**
- 14. Consider and act on the report of the Governance and Performance Review Committee**
- 15. Consider and act on the report of the Institutional Advancement Committee**

16.Public comment

17.Consider and act on other business

18.Consider and act on whether to authorize an executive session of the Board to address items listed below, under Closed Session

CLOSED SESSION

19.Approval of minutes of the Board's closed session meeting of April 16, 2013

20.Approval of minutes of the Board's closed session telephonic meeting of May 21, 2013

21.Briefing by Management

22.Briefing by the Inspector General

23.Consider and act on General Counsel's report on potential and pending litigation involving LSC

24.Consider and act on list of prospective funders

25.Presentation by, and discussion with, General Counsel on privileged legal advice

26.Consider and act on motion to adjourn meeting

Minutes of April 16, 2013 Meeting

**Legal Services Corporation
Meeting of the Board of Directors
Open Session**

Tuesday, April 16, 2013

Chairman John G. Levi convened an open session meeting of the Legal Services Corporation's ("LSC") Board of Directors at 8:51 a.m. on Tuesday, April 16, 2013. The meeting was held at the F. William McCalpin Conference Center, Legal Services Corporation, 3333 K Street, N.W. Washington, D.C. 20007.

The following Board members were present:

John G. Levi, Chairman
Martha L. Minow
Sharon L. Browne (by telephone)
Robert J. Grey Jr.
Charles N.W. Keckler (by telephone)
Victor B. Maddox
Laurie Mikva
Father Pius Pietrzyk
Julie A. Reiskin
Gloria Valencia-Weber
James J. Sandman, *ex officio*

Also attending were:

Lynn Jennings	Vice President for Grants Management
Rebecca Fertig	Special Assistant to the President
Richard L. Sloane	Chief of Staff & Special Assistant to the President
Patricia Stinneford	Executive Assistant to the President
Victor M. Fortunato	Vice President for Legal Affairs, General Counsel, and Corporate Secretary
Kara Ward	Assistant General Counsel, Office of Legal Affairs
Atitaya Rok	Staff Attorney, Office of Legal Affairs
Richa Mathur	Law Clerk, Office of Legal Affairs
Katherine Ward	Executive Assistant, Office of Legal Affairs
Jessica Baker	Intern, Office of Legal Affairs
David L. Richardson	Comptroller and Treasurer
Jeffrey E. Schanz	Inspector General
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel
David Maddox	Assistant Inspector General for Management and Evaluation,
Carol Bergman	Director, Office of Government Relations and Public Affairs
Janet LaBella	Director, Office of Program Performance
Lora M. Rath	Deputy Director, Office of Compliance and Enforcement
Traci Higgins	Director, Office of Human Resources

Peter Campbell	Chief Information Officer, Office of Information Technology (OIT)
LaVon Smith	OIT
Eric Jones	OIT
Thomas Smegal	Non-Director Member, LSC Institutional Advancement Committee
Frank Strickland	Non-Director Member, LSC Institutional Advancement Committee
Robert Henley Jr.	Non-Director Member, LSC Finance Committee
Allan Tanenbaum	Non-Director Member, LSC Finance Committee
Paul Snyder	Non-Director Member, Audit Committee
Richard Teitelman	Chief Justice, Supreme court of Missouri
Zoe Linza	Executive Director, Bar Association of Metro St. Louis
Thomas G. Glick	President of the Board, Legal Services of Eastern Missouri
Robert V. Racunas	Executive Director, Boston Bar Association
Don Saunders	National Legal Aid and Defenders Association (NLADA)
Terry Brooks	American Bar Association
Dominique Martin	Law99.com

The following summarizes actions taken by, and presentations made to, the Board:

Chairman Levi noted the presence of a quorum and called the meeting to order. Ms. Mikva led the Pledge of Allegiance.

MOTION

Mr. Grey moved to approve the agenda. Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Father Pius moved to approve the minutes of the Committee’s meeting of January 26, 2013. Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

Chairman Levi gave the Chairman’s Report and asked Mr. Grey and Mr. Maddox to provide a brief report on the work of the Pro Bono Task Force Implementation Committee. There were no Members’ Reports. President Sandman gave the President’s Report, which included introducing LSC’s new Chief Information Officer, Peter Campbell; providing updates on the Public Welfare Foundation grant and implementation of recommendations of the Fiscal

Oversight Task Force; and reporting on improvements being made to LSC's grant application and review process, information received from grantees from 2012, and a new project funded by the Public Welfare Foundation and the Kresge Foundation. He was followed by Inspector General Schanz who gave the Inspector General's Report.

Father Pius gave the report of the Promotion and Provision for the Delivery of Legal Services Committee, and he was followed by Mr. Grey who presented the report of the Finance Committee.

MOTION

Mr. Grey presented the resolution for the Board to adopt the consolidated operating budget for fiscal year 2013.

VOTE

The motion passed by voice vote.

Mr. Keckler gave the report of the Operations and Regulations Committee.

MOTION

Mr. Keckler moved to authorize a notice of two PAI rulemaking workshops for publication in the *Federal Register*. Ms. Reiskin seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Mr. Keckler moved to authorize rulemaking on 45 C.F.R. Part 1626 restrictions on assistance to aliens, to conform it to existing statutory authorizations.

VOTE

The motion passed by voice vote.

Dean Minow presented the report of the Governance & Performance Review Committee, and she was followed by Chairman Levi who gave the report of the Institutional Advancement Committee.

MOTION

Ms. Reiskin moved to approve LSC's fundraising objectives, as recommended by the Institutional Advancement Committee. Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

Mr. Maddox gave the report of the Audit Committee.

Chairman Levi noted that agenda item 14, consider and act on Resolution 2013-006 in recognition of distinguished service by Victor M. Fortuno, was previously approved by notational vote of the Board.

Chairman Levi invited public comment. On behalf of the National Legal Aid and Defenders Association, the Center for Law and Social Policy, and LSC's grantees, Mr. Saunders commended Mr. Fortuno for his thirty years of service to LSC. Mr. Smegal commented on Mr. Fortuno's work with Friends of the Legal Services Corporation. There was no new business to consider.

MOTION

Dean Minow moved to authorize a closed session of the meeting. Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

The open session meeting of the Board adjourned at 10:15 a.m.

Minutes of May 21, 2013 Meeting

**Legal Services Corporation
Telephonic Meeting of the Board of Directors
Open Session**

Tuesday, May 21, 2013

Chairman John G. Levi convened an open session telephonic meeting of the Legal Services Corporation's ("LSC") Board of Directors at 11:04 a.m. on Tuesday, May 21, 2013. The meeting was held at the F. William McCalpin Conference Center, Legal Services Corporation, 3333 K Street, N.W. Washington, D.C. 20007.

The following Board members were present:

John G. Levi, Chairman
Martha L. Minow
Sharon L. Browne
Robert J. Grey, Jr.
Charles N.W. Keckler
Victor B. Maddox
Laurie Mikva
Julie A. Reiskin
Gloria Valencia-Weber
James J. Sandman, *ex officio*

Also attending were:

Lynn Jennings	Vice President for Grants Management
Richard L. Sloane	Special Assistant to the President
Rebecca Fertig	Special Assistant to the President
Victor M. Fortunato	Vice President for Legal Affairs, General Counsel, and Corporate Secretary
Mark Freedman	Senior Assistant General Counsel, Office of Legal Affairs
Atitaya Rok	Staff Attorney, Office of Legal Affairs
Katherine Ward	Executive Assistant, Office of Legal Affairs
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel
Joel Gallay	Special Counsel to the Inspector General
Ronald "Dutch" Merryman	Assistant Inspector General for Audit
Thomas Coogan	Assistant Inspector General for Investigations
David Maddox	Assistant Inspector General for Management and Evaluation
Carol A. Bergman	Director, Office of Government Relations and Public Affairs
Rebecca Weir	Government Affairs Representative, Office of Government Relations and Public Affairs
Lora M. Rath	Deputy Director, Office of Compliance and Enforcement
Jon Asher	Executive Director, Colorado Legal Services
Chuck Greenfield	National Legal Aid and Defender Association (NLADA)

The following summarizes actions taken by, and presentations made to, the Board:

Chairman Levi called the meeting to order.

MOTION

Ms. Mikva moved to approve the agenda. Mr. Maddox seconded the motion.

VOTE

The motion passed by voice vote.

The Board members discussed the Inspector General's (IG's) Semi-Annual Report to Congress for the reporting period of October 1, 2012 through March 30, 2013, and the accompanying transmittal from the Board to Congress. Members of the Office of Inspector General and LSC management responded to Board members' questions.

MOTION

Dean Minow moved to approve the transmittal accompanying the IG's Semi-Annual Report to Congress for the reporting period of October 1, 2012 through March 30, 2013. Ms. Reiskin seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Ms. Browne moved to adopt a resolution thanking Amy Reagan for her service on the Pro Bono Task Force. Ms. Reiskin seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Ms. Brown moved to authorize a closed session of the meeting. Dean Minow seconded the motion.

VOTE

The motion passed by voice vote.

The Board members convened a closed session meeting of the Board at 11:26 a.m.

The Board members reconvened the open session meeting of the Board at 11:37 a.m.

Dean Minow served as Chair of the meeting for agenda item 6, to consider and act on a resolution on the appointment of a Vice President for Legal Affairs, General Counsel, and Corporate Secretary. President Sandman reported on the search for a Vice President for Legal Affairs, General Counsel, and Corporate Secretary and shared Management's recommendation that the Board appoint Ronald Flagg.

MOTION

Ms. Reiskin moved to adopt the resolution appointing Ronald Flagg as Vice President for Legal Affairs, General Counsel, and Corporate Secretary. Professor Valencia-Weber seconded the motion.

VOTE

The motion passed by voice vote.

Chairman Levi invited public comment. Mr. Greenfield raised the issue of making the IG's Semi-Annual Report to Congress and the Board's draft transmittal publicly available so the public can follow the Board's discussion during the meeting. There was no new business to consider.

MOTION

Ms. Browne moved to adjourn the meeting.

The meeting of the Board adjourned at 11:59 a.m.

**LSC Pro Bono Task Force Report
Implementation Update July 2013**

LSC PRO BONO TASK FORCE IMPLEMENTATION UPDATE JULY 2013

I. PRO BONO TASK FORCE OVERVIEW

In March 2011, LSC created a Pro Bono Task Force comprised of judges, corporate general counsel, bar leaders, technology experts, leaders of organized pro bono programs, law firm leaders, government lawyers, law school deans, and the heads of legal aid organizations, to consider how to increase pro bono contributions to civil legal aid. The Task Force divided into working groups and spent months conducting interviews, identifying effective practices, and sharing ideas before reporting its findings and recommendations to the LSC Board of Directors.

In October 2012, the Pro Bono Task Force released its findings and recommendations. Implementation of the recommendations is following two tracks. The first track relates to activities that require a formal process directed by LSC such as budget requests and the promulgation of regulations. The second track is less formal and engages a broad array of stakeholders. To facilitate implementation, LSC has established a Steering Committee and four subcommittees to work on the remaining recommendations.

II. IMPLEMENTING THE TASK FORCE RECOMMENDATIONS

A. Creation of a Pro Bono Innovation Fund

One of the Task Force's key recommendations is for LSC to work with Congress to create a Pro Bono Innovation/Incubation fund and Fellowship Program. To that end, in the fall of 2012, LSC staff worked with colleagues on the Hill to fashion the contours of a Pro Bono Innovation Fund which is part of the Obama Administration and LSC's budget requests.

In its FY 2014 Budget Request, LSC is asking for \$5,000,000 to establish a Pro Bono Innovation Fund. This represents approximately 1% of the overall budget request. The Innovation Fund would support new and innovative projects that promote and enhance pro bono initiatives throughout the country. It would leverage federal dollars to increase free legal aid for low income Americans by engaging private attorneys.

Purpose. The Innovation Fund will use competitive grants to invest in projects that identify and promote replicable innovations in pro bono for the benefit of the eligible poverty population. Projects funded under this fund will develop, test, and replicate innovative pro bono efforts that can enable LSC grantees to expand clients' access to high quality legal assistance. The grant criteria would require both innovation (new ideas or new applications of existing best practices) and replicability (likelihood that the innovation, if successful, could be implemented by other legal aid programs).

LSC will allow innovation grants to be used to improve, or to implement in new locations, successful projects developed using previous Innovation Fund grants. LSC expects that each

approved project will either serve as a model for other legal services providers to follow or effectively replicate a prior innovation.

An innovation grant award is not meant to substitute for, or be credited against, the longstanding requirement that LSC grantees spend an amount equivalent to 12.5% of their basic field grant funding to involve private attorneys in the delivery of legal assistance to eligible clients.

Eligible Applicants. Eligible applicants for the Innovation Fund would be existing LSC grant recipients.

Eligible Activities. The following activities are illustrative of projects that would be eligible for funding under the proposed Innovation Fund.

- Developing pro bono programs to serve rural and other hard-to-reach communities;
- Providing pro bono opportunities that engage all segments of the bar—solo practitioners, in-house corporate counsel, firm lawyers, law schools, non-profit and government attorneys, and other pro bono providers;
- Developing accessible, tested, user-friendly curricula and training programs for pro bono attorneys;
- Expanding collaborations and resource-sharing among pro bono programs in a city, state or region;
- Targeting pro bono projects to practitioners in specific areas of law, with appropriate training, mentoring, and other support for volunteers;
- Developing pro bono programs with specialized bar associations that relate to the association's expertise and interests; and
- Forming cohorts of lawyers to expand volunteerism by leveraging shared interests and experiences.

B. Revision of LSC's Private Attorney Involvement Regulation

The Task Force also recommended that LSC revise its Private Attorney Involvement (PAI) Regulation to enhance pro bono. On April 14, 2013, the LSC Board voted to convene two PAI rulemaking workshops. Earlier this week (it will be published on Monday or Tuesday), LSC noticed the Workshops in the *Federal Register*. Participants are invited to attend in person, via webinar, or telephonically via a conference bridge line. Information about how to participate is available on LSC's website.

Workshop #1 Details:

When: July 23, 2013 after the LSC Board Meeting, 1:30 p.m.- 4:30 p.m. MDT
Where: Warwick Denver Hotel, 1776 Grant St., Denver, Colorado 80203
Due Date: Expressions of interest in participating as a panelist in Denver must be received by 5:30 p.m. EDT on June 25, 2013.

Panelist	Organization	Topic 1	Topic 2	Topic 3	Other
Silvia Argueta	National Legal Aid and Defender Association (NLADA)	X	X	X	X
Steve Gottlieb	Atlanta Legal Aid Society	X	X	X	
Judge Mary Katherine Huffman	Greater Dayton Volunteer Lawyers Project	X	X		
Joan Kleinberg	Northwest Justice Project (Wash.)		X	X	
Kenneth Penokie	Legal Services of Northern Michigan	X		X	
Lisa Wood	ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID)	X	X	X	X

Workshop #2 Details:

When: September 17, 2013 from 1:30 p.m. - 4:30 p.m. EDT.

Where: F. William McCalpin Conference Center, Legal Services Corporation Headquarters, 3333 K Street, N.W., Washington, DC 20007

Due Date: Expressions of interest in participating as a panelist in at the Washington, DC workshop must be received by 5:30 p.m. EDT on August 20, 2013.

All written comments on revising the PAI rule, 45 CFR part 1614, must be received by 5:30 p.m. EDT on October 17, 2013.

Specifically, the rulemaking workshops will address the following topics and questions:

Topic 1: *LSC Pro Bono Task Force Recommendation 2(a) - Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives.*

The Pro Bono Task Force identified several categories of pro bono volunteers as potential resources for LSC recipients to expand in the delivery of legal assistance. The Task Force noted that the LSC definition of "staff attorney," which is based on a compensation scheme standard, is a barrier to full engagement by recipients of deferred associates, law students, and recent law school graduates. LSC welcomes a full discussion of engaging new categories of pro bono volunteers and of improvements to the PAI regulation that would facilitate that engagement.

Items for Discussion on Topic 1:

- How are legal service providers engaging new categories of volunteers?
- What are the needs of these new categories of volunteers?
- What are the obstacles to LSC grant recipients' full use of these volunteers?
- Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the supervision and training of these volunteers?

- How can LSC ensure against fraud, waste, or abuse related to implementing this recommendation?
- What caution should LSC exercise to ensure against any unintended consequences?
- To the extent applicable, discuss how any approaches you recommend might be implemented.

Topic 2: *LSC Pro Bono Task Force Recommendation 2(b) - Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.*

The Pro Bono Task Force identified the benefits of integrated intake and referral systems that link clients to volunteer attorneys. Resources used by recipients to staff these integrated systems have not traditionally been recognized as eligible for PAI funds. LSC welcomes a full discussion of the relationship between integrated intake and referral systems that link clients with pro bono volunteers and the use of PAI funds.

Items for Discussion on Topic 2:

- How are recipients currently using integrated intake and referral systems?
- Do LSC's current PAI regulations inhibit full use of integrated intake and referral systems?
- Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to create and staff integrated intake and referral systems?
- How can LSC ensure against fraud, waste or abuse related to implementing this recommendation?
- What caution should LSC exercise to ensure against any unintended consequences?
- To the extent applicable, discuss your organization's ability to execute any recommended approaches.

Topic 3: *LSC Pro Bono Task Force Recommendation 2(c) - LSC should reexamine the rule and the prevailing Office of Legal Affairs legal opinions that mandate adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.*

The Pro Bono Task Force encouraged brief service clinics in which pro bono volunteers rely on LSC recipients to provide technical assistance, research, advice, and counsel to the volunteers. If the recipient is not providing the client service, but is providing training to pro bono volunteers, the Pro Bono Task Force recommended that the resources the recipient uses to support the training be an eligible use for PAI funds, without obligating the pro bono volunteers to screen clients for LSC eligibility or requiring the recipient accept the people served by the clinics as its own clients. LSC welcomes a full discussion of the use of pro bono volunteers in such clinics and invites input on improvements to the existing regulations to facilitate such use.

Items for Discussion on Topic 3:

- How are recipients currently using or supporting pro bono volunteers in brief service clinics?
- What are the obstacles to recipients' use of pro bono volunteers in brief service clinics?
- Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics?
- If LSC were to allow recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics under circumstances where the users of the clinics are not screened for LSC eligibility or accepted as clients of the recipient, how could that change be implemented in a manner that ensures compliance with legal restrictions on recipients' activities and uses of LS funds?
- How can LSC ensure against fraud, waste or abuse related to implementing this recommendation?
- What caution should LSC exercise to ensure against any unintended consequences?
- To the extent applicable, discuss your organization's ability to execute any recommended approaches.

C. Implementation Steering Committee and Subcommittees

To oversee the implementation of the remainder of the Task Force's recommendation, the LSC Board of Directors established a Steering Committee and collaborated with the ABA's Pro Bono Committee to outline the scope of the subcommittees. The subcommittees are:

1. Pro Bono Toolkit, Technology, and Effectiveness Implementation Subcommittee;
2. Pro Bono Culture Change Subcommittee;
3. Pro Bono Fellowship Subcommittee; and
4. Pro Bono Rules Change Implementation Subcommittee

Subcommittees are comprised of LSC Board members, LSC grantees, members of the private bar, the judiciary as well as interested stakeholder groups. We want to be as inclusive as possible and leverage resources from the legal services community.

Pro Bono Toolkit, Technology, and Effectiveness Implementation Subcommittee		
Scope:	This subcommittee will focus on developing a toolkit and technology platform for LSC grantees to strengthen and enhance their pro bono efforts. It will also focus on measuring and evaluating the effectiveness of pro bono programs to better coordinate efforts and research to maximize the success of pro bono programs.	
Rec. #1.	LSC should serve as an Information Clearing house and Source of Coordination and Technical Assistance to help grantees develop strong pro bono programs.	
Rec. 1.2:	Create a professional association specifically for pro bono managers at LSC grantees.	
Rec. 1.3:	Develop a pro bono tool kit.	
Co-Chairs:	Martha Minow, LSC Board Julie Reiskin, LSC Board	Nan Heald, Pine Tree Legal Services Esther Lardent, Pro Bono institute
Members:	Scott Cummings, UCLA School of Law	Lora Livingston, Travis County District Court
	Colleen Cotter, Legal Aid Society of Cleveland	Michael Monahan, State Bar of Georgia, Pro Bono Project
	Lisa Dewey, DLA Piper	Dave Pantos, Legal Aid of Nebraska
	L. Joseph Genereux, Dorsey & Whitney, LLP	Linda Rexer, Michigan State Bar Foundation
	Robert Gillett, Legal Services of Central Michigan	Maureen Syracuse, APBCo
	Terry Hamilton, Lone Star Legal Aid	Angela Vigil, Baker and McKenzie, LLP
	Anne Geraghty Helms, DLA Piper	Cheryl Zalenski, ABA
	Ellen Lawton, EL Consulting	Jennifer van Dulmen (point person for NAPBPro)
Status:	<ul style="list-style-type: none"> • Co-chair conference call: April 12, 2013 • Co-chair conference call: May 6, 2013 • Co-chair conference call: June 17, 2013 • Full Subcommittee call: Scheduled for July 17, 2013 • Work plan agreed to. • LSC is compiling a spreadsheet of the hallmarks of all PAI plans. 	

Pro Bono Culture Change Implementation Subcommittee		
Scope:	This subcommittee will build on and amplify the successes of various public relations campaigns and other initiatives that instill the value of pro bono among members of the bar.	
Rec. #3.	LSC should launch a Public Relations campaign on the importance of pro bono.	
Co-Chairs:	Sharon Brown, LSC Board Gloria Valencia-Weber, LSC Board JoAnn Wallace, NLADA	
Members:	Lisa Dewey, DLA Piper	Larry McDevitt, Van Winkle Law Firm
	Douglas Eakeley, Lowenstein Sandler, LLP	Steve Scudder, ABA
	Richard Gruenberger, DLA Piper	Paige Sessenbrenner, Adams & Reese, LLP
	Anne Geraghty Helms, DLA Piper	John Whitfield, Blue Ridge Legal Services
	George Hettrick, Hunton & Williams	Lisa Wood, Foley Hoag, LLP
	Maha Jaweid, Department of Justice	
Status:	<ul style="list-style-type: none"> • Co-chair conference call: April 24, 2013 • Co-chair conference call: June 4, 2013 • The Subcommittee is reaching out to Gary Yordon to assist the committee in honing in shaping the appropriate scope of its work. 	

Pro Bono Fellowship Development Committee		
Scope:	This subcommittee will research and develop options for potential "fellowship"-type opportunities at various stages in a lawyer's career.	
Rec. #4.	LSC should create a fellowship program to foster a lifelong commitment to pro bono.	
Co-Chairs:	John Levi, LSC Board Charles Keckler, LSC Board David Stern, Equal Justice Works	
Members:	Margaret Benson, Chicago Volunteer Lawyers Fdn.	John Rosenberg
	Ronald Flagg, LSC	Jim Sandman, LSC
	Steve Grumm, ABA	Jennifer van Dulmen, Community Legal Services
	Roberta (Bert) Ritvo, DLA Piper	John Whitfield, Blue Ridge Legal Services
Status:	<ul style="list-style-type: none"> • Co-chair conference call: May 8, 2013 • Co-chair conference call: May 29, 2013 • Full Subcommittee call: June 26, 2013 	

	<ul style="list-style-type: none"> • Subcommittee members have reviewed various fellowship ideas related to revamping the Reggie Fellows, a rural pro bono fellowship, and an Advocate for America proposal. • With limited funding available for fellowship activities, the Board’s Institutional Advancement Committee needs to decide how the Fellowship Subcommittee should move forward.
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Pro Bono Rules Change Implementation Subcommittee									
Scope:	This subcommittee will explore options to change judicial, CLE and other state rules to promote and support pro bono.								
Request #3.	Judges and Bar Leaders should amend attorney practice, judicial ethics, and CLE rules to support pro bono. Provide CLE credit for pro bono work. Revise judicial codes of conduct to allow judges to encourage lawyers to provide pro bono legal services. Explore other state rule changes that would encourage additional pro bono work by the private bar. Create or strengthen State Access to Justice commissions.								
Co-Chairs:	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Harry Korrell, LSC Board</td> <td style="width: 50%;">Judge Jim Moyer, U.S. Magistrate, Western District of KY</td> </tr> <tr> <td>Laurie Mikva, LSC Board</td> <td></td> </tr> </table>	Harry Korrell, LSC Board	Judge Jim Moyer, U.S. Magistrate, Western District of KY	Laurie Mikva, LSC Board					
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Members:	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Renee Chantler, DLA Piper</td> <td style="width: 50%;">Mary Ryan, Nutter, McClennen & Fish, LLP</td> </tr> <tr> <td>Lisa Dewey, DLA Piper</td> <td>Steve Scudder, ABA</td> </tr> <tr> <td>Hon. Janice Holder, Tennessee Supreme Court</td> <td>Hon. Richard Thornburgh, K&L Gates LLP</td> </tr> <tr> <td>Jane LaBarbera, American Association of Law Schools</td> <td>Ginny Martin (point person for NAPBPro)</td> </tr> </table>	Renee Chantler, DLA Piper	Mary Ryan, Nutter, McClennen & Fish, LLP	Lisa Dewey, DLA Piper	Steve Scudder, ABA	Hon. Janice Holder, Tennessee Supreme Court	Hon. Richard Thornburgh, K&L Gates LLP	Jane LaBarbera, American Association of Law Schools	Ginny Martin (point person for NAPBPro)
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Hon. Janice Holder, Tennessee Supreme Court	Hon. Richard Thornburgh, K&L Gates LLP								
Jane LaBarbera, American Association of Law Schools	Ginny Martin (point person for NAPBPro)								
Status:	<ul style="list-style-type: none"> • Co-chair conference call: April 24, 2013 • Full Subcommittee call: June 21, 2013 • Areas of focus include: Law students, CLE issues, emeritus and retired lawyers, government lawyers, disaster-related exemptions, paraprofessionals, judicial codes of conduct, and malpractice insurance barriers. • Using information provided by the ABA, LSC is putting together a spreadsheet outlining progress the states have made in certain rules changes. • Reach out to the Pro Bono Institute to ask about the work it’s doing in the corporate counsel arena. 								

**Proposed Institutional Advancement
Committee Documents for Approval by
Board**

**Protocol for the Acceptance and Use
of
Private Contributions of Funds to LSC**

(for inclusion in the LSC Accounting and Administrative Manuals)

Proposed changes June 26, 2013

1. Protocol and Purposes

This Protocol for the Acceptance and Use of Private Contributions (“Protocol”) governs the solicitation and acceptance of financial contributions by the Legal Services Corporation (“LSC” or “Corporation”).

The purpose of this Protocol is to provide guidance for LSC’s Board of Directors (“Board”), non-Director members who are invited to serve on committees of the Board, staff, and other stakeholders concerning gifts to LSC, and to provide guidance to prospective donors and their professional advisors when making financial contributions to LSC. The provisions of this Protocol shall apply to all financial contributions received by LSC. LSC’s Board reserves the right to revise or revoke this Protocol at any time and to make exceptions. Any changes or exceptions to this Protocol must be approved by the Board in writing. These changes or exceptions will be made available on the LSC website at www.lsc.gov.

~~From time to time, LSC may receive private contributions of funds for the conduct of LSC business. These private contributions may be in the form of grants for which LSC has applied, may be contributions other than grants that LSC staff or Board members have solicited, or may be unsolicited private contributions. This protocol shall apply to the solicitation, acceptance, budgeting, expenditure of and accounting for private contributions of funds (whether in the form of grants or other solicited or unsolicited contributions). In kind contributions of goods or services are not subject to this protocol.~~

This Protocol is not meant to apply to (a) in kind contributions of goods or services or (b) funds appropriated to the LSC by the federal government.

All solicitations of gifts by Board members, non-Director members of Board committees, and LSC staff will be coordinated with the Chief Development Officer to ensure compliance with this Protocol.

A.2. Grants and Gifts

For the purposes of this ~~p~~Protocol, a “grant” is defined as any funding opportunity made available by a third party pursuant to a Request for Proposal or some other equivalent application process. A “gift” is a financial contribution, solicited or unsolicited, made available by a third party, other than a grant.

The Board’s Institutional Advancement Committee will vet funding Prospects and

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make recommendations to the Board for approval. LSC can pursue

~~A~~ applications for grants and solicitations for gifts from Board-approved Prospects for the following purposes described below ~~are hereby approved by the Board of Directors (“Board”)~~ and LSC may submit grant applications for funding for such purposes without further approval of, but subject to at least ten business days’ prior notice to, the Board:

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~~a.~~ ~~Grants for~~ Research projects related to legal services for people of limited means;

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~~b.~~ ~~Grants for~~ Projects to provide training and technical assistance to LSC grant recipients or staff;

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~~c.~~ ~~Grants for~~ Fellowships to take positions with LSC grant recipients;

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~~d.~~ ~~Grants for programs to educate the~~ Public education initiatives about the role of LSC-funded legal services providers in their communities, LSC, access to justice issues, and matters related to access to justice;

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~~e.~~ ~~Grants for the~~ advancement of *pro bono* programs serving the civil legal needs of persons of limited means; ~~and~~

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~~f.~~ ~~Grants in~~ support of LSC’s private development capacity, with use of this capacity to remain subject to this protocol;

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g. Support of LSC-sponsored conferences or meetings; and

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h. Support of any Board-approved initiatives or special projects.-

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Before any director, officer or employee of LSC ~~applies for~~ pursues any grant or gift for a purpose either not listed ~~above~~ under subparagraphs (a) through (h) or from a non-approved Prospect or Prospects, the proposed grant application or solicitation must be presented to the Board for approval no later than ten business days in advance of submission of the application.

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B.3. Solicitation of Gifts and other Non-Grant Contributions

a. Solicitation of Gifts

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Except as otherwise provided herein, no Director, officer or employee may solicit the private contribution of funds without prior approval of the Board.

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~~Before any Director, officer or employee of LSC makes any solicitation the proposed~~

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~~solicitation must be presented to the Board for approval no later than ten business days in advance of the proposed solicitation.~~

The Institutional Advancement Committee will receive at each quarterly Board meeting a prospect list of those individuals, corporations, or other entities that may be approached for gifts or grants which it will forward to the Board for its approval. Additional Prospects may be approved by the Board at any of its duly convened meetings.

Exempt from this requirement, but subject to the approval of the President of LSC, are 1) solicitations for modest donations not to exceed a total of \$5,000 per event for LSC staff events/functions and 2) fundraising among LSC staff for charitable causes.

b. C. — Unsolicited Contributions Gifts

LSC Directors, officers and employees are authorized to discuss unsolicited offers of donations that are aligned with LSC's priorities and mission with the potential donor, ~~but must and will~~ notify such prospective donor that ~~no a~~ donation may be accepted only ~~without~~ the ~~express~~ approval of the LSC President or his/her designee. If the offered donation is less than \$5,000, the LSC President or his/her designee is authorized to accept the donation if he or she deems it appropriate. For offered donations of \$5,000 or more, the LSC President or his/her designee may accept such donations ~~without further approval of but subject to with~~ at least ten business days' reasonable prior notice to the Board

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c. Gifts Subject to Board Review and Approval Prior to Acceptance

All gifts, other than unrestricted cash contributions and those for Board-approved initiatives or projects listed in Section 2 from Board-approved Prospects, must be reviewed and approved by the Board prior to acceptance.

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d. Marketable Securities

Unrestricted marketable securities shall be transferred to an account maintained by LSC at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. All marketable securities shall be sold as soon as practical following receipt unless otherwise directed by the Board.

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e. Non-Marketable Securities

Non-marketable securities, including debt and equity positions in non-publicly traded companies, interests in limited liability partnerships and limited liability corporations, or other ownership forms, will be considered under the terms of gift acceptance detailed in

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Section 1. The Board shall review and decide whether to accept non-marketable securities based on the following factors:

- i. Restrictions on the security that would prevent LSC from ultimately converting the securities to cash;
- ii. The marketability of the securities; and
- iii. Any undesirable consequences for LSC from accepting the securities.

The Board may seek review and advice by an outside professional before deciding to accept the gift. Non-marketable securities shall be sold as quickly as possible.

f. Bequests

Donors may make bequests to LSC under their wills and trusts. LSC will not record a bequest until the gift is received.

g. Charitable Remainder Trusts

LSC may accept designations as remainder beneficiary of a charitable remainder trust. LSC shall not accept appointment as trustee of a charitable remainder trust without Board approval.

h. Charitable Lead Trusts

LSC may accept designations as income beneficiary of a charitable lead trust. LSC shall not accept an appointment as trustee of a charitable lead trust without Board approval.

i. Retirement Plan Beneficiary Designations

LSC may accept designations as beneficiary of donors' retirement plans. Designations will not be recorded as gifts until the gift is received.

j. Life Insurance

LSC may accept designations as beneficiary and owner of a life insurance policy. The life insurance policy will be recorded as a gift once LSC is named as both beneficiary and irrevocable owner of a life insurance policy. The gift shall be valued in accordance with Generally Accepted Accounting Principles ("GAAP"). If the donor contributes future premium payments, LSC will include the entire amount of the additional premium payment as a gift in the year that it is made. If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, LSC may:

- i. Continue to pay the premiums;
- ii. Convert the policy to paid up insurance, or
- iii. Surrender the policy for its current cash value.

Donors may name LSC as beneficiary or contingent beneficiary of their life insurance policies. Designations will not be recorded as gifts until the gift is irrevocable. Where the gift is irrevocable, the gift shall be recorded in accordance with GAAP.

k. Oil, Gas, and Mineral Interests

LSC may accept oil and gas property interests when appropriate.

l. Named Funds

A donor, or group of donors, may contribute and name a fund and restrict the use of the income or principal of the fund. Named funds require a minimum contribution or pledge of \$100,000 and are subject to the Board's approval.

1.4. Notification to Donors

Whenever a grant or other contribution to LSC is received by the Corporation, the ~~Treasurer~~ Chief Development Officer will prepare an acknowledgment for the President's signature shall acknowledge the contribution and, so long as required by law, include a statement that funds contributed to LSC may not be used in any manner that violates the LSC Act or any provision of the Appropriations Act that applies to LSC.

2.5.E. Budgeting of contributions

All private funds received by LSC for the same purposes, whether in the form of grants or solicited or unsolicited contributions shall be accounted for separately. The Board shall approve the budgeting of such funds using the same LSC Budget Guidelines that apply to all other LSC funds. If contributed funds carry restrictions, acceptance of the funds is subject to a determination by the General Counsel that LSC may legally accept the funds.

3.6.F. Expenditures from contributed funds

Contributed funds shall be spent in accordance with the LSC Administrative Manual and are subject to the same approval requirements as contained in the Manual. In the event that contributed funds are to be used to pay for expenses for which federal funds may not be used, such contributed funds must be received and budgeted prior to any such expense being incurred. No federal funds shall be advanced to cover any expense intended to be paid for by private contributions.

4.7. G. Accounting

Should LSC engage in a solicitation of private contributions, the Comptroller shall provide an accounting of any additional expense to the Corporation associated with the solicitation.

~~5~~8. Use of Legal Counsel

- a. LSC. The Board shall seek the advice of the Office of Legal Affairs in matters relating to acceptance of gifts when appropriate.
- ~~a~~.b. Donor. For non-cash gifts, in order to avoid any potential conflicts of interest, LSC should encourage prospective donors to seek the assistance of their own legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences.

9. Ethical Considerations and Conflict of Interest

LSC is committed to the highest ethical business practices in fundraising. All donor engagement on behalf of LSC will adhere to LSC's Code of Ethics and Conduct and the Donor Bill of Rights. The Board shall seek the advice of LSC's Ethics Officer on the acceptance of any gift or transaction that presents an actual or potential conflict of interest.

LSC shall not accept gifts that:

- a. Violate the terms of LSC's organizational documents, including, but not limited to, the LSC Act, LSC appropriations acts, LSC regulations, or the LSC Code of Ethics and Conduct;
- b. Would jeopardize LSC's status as a tax-exempt organization under federal or state law;
- c. Are for purposes that do not further LSC's objectives; or
- d. Could damage LSC's reputation.

10. Gift Agreements

Where appropriate, LSC shall enter into a written gift agreement with the donor, specifying the terms of any restricted gift, which may include provisions regarding donor recognition.

~~6~~11. Pledge Agreements

Acceptance by LSC of pledges by donors of future support of LSC (including by way of matching gift commitments) shall be contingent upon the execution and fulfillment of a written charitable pledge agreement specifying the terms of the pledge, which may include provisions regarding donor recognition.

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~~7~~12. Fees

LSC will not accept a gift unless the donor is responsible for (1) the fees of independent legal counsel retained by donor for completing the gift; (2) appraisal fees; (3) all other third-party fees associated with the transfer of the gift to LSC.

13. Valuation

LSC shall record gifts received at their valuation on the date of gift, except that, when a gift is irrevocable, but is not due until a future date, the gift may be recorded at the time the gift becomes irrevocable in accordance with GAAP.

Adopted on ~~July 27, 2012~~, 2013 and supersedes
Board Resolution nos. 2012-012, 2010-004, and 2008-013

**Protocol for the Acceptance and Use
of
Private Contributions of Funds to LSC**

(for inclusion in the LSC Accounting and Administrative Manuals)

Proposed changes June 27, 2013

1. Protocol and Purposes

This Protocol for the Acceptance and Use of Private Contributions (“Protocol”) governs the solicitation and acceptance of financial contributions by the Legal Services Corporation (“LSC” or “Corporation”).

The purpose of this Protocol is to provide guidance for LSC’s Board of Directors (“Board”), non-Director members who are invited to serve on committees of the Board, staff, and other stakeholders concerning gifts to LSC, and to provide guidance to prospective donors and their professional advisors when making financial contributions to LSC. The provisions of this Protocol shall apply to all financial contributions received by LSC. LSC’s Board reserves the right to revise or revoke this Protocol at any time and to make exceptions. Any changes or exceptions to this Protocol must be approved by the Board in writing. These changes or exceptions will be made available on the LSC website at www.lsc.gov.

This Protocol is not meant to apply to (a) in kind contributions of goods or services or (b) funds appropriated to the LSC by the federal government.

All solicitations of gifts by Board members, non-Director members of Board committees, and LSC staff will be coordinated with the Chief Development Officer to ensure compliance with this Protocol.

2. Grants and Gifts

For the purposes of this Protocol, a “grant” is defined as any funding opportunity made available by a third party pursuant to a Request for Proposal or some other equivalent application process. A “gift” is a financial contribution, solicited or unsolicited, made available by a third party, other than a grant.

The Board’s Institutional Advancement Committee will vet funding Prospects and make recommendations to the Board for approval. LSC can pursue applications for grants and solicitations for gifts from Board-approved Prospects for purposes described below without further approval of, but subject to at least ten business days’ prior notice to, the Board:

- a. Research projects related to legal services for people of limited means;

- b. Projects to provide training and technical assistance to LSC grant recipients or staff;
- c. Fellowships to take positions with LSC grant recipients;
- d. Public education initiatives about the role of LSC-funded legal services providers in their communities, LSC, access to justice issues, and matters related to access to justice;
- e. Advancement of *pro bono* programs serving the civil legal needs of persons of limited means;
- f. Support of LSC's private development capacity, with use of this capacity to remain subject to this protocol;
- g. Support of LSC-sponsored conferences or meetings; and
- h. Support of any Board-approved initiatives or special projects.

Before any director, officer or employee of LSC pursues any grant or gift for a purpose either not listed under subparagraphs (a) through (h) or from a non-approved Prospect or Prospects, the proposed grant application or solicitation must be presented to the Board for approval no later than ten business days in advance of submission of the application.

The Institutional Advancement Committee will receive

3. Gifts and other Non-Grant Contributions

a. Solicitation of Gifts

Except as otherwise provided herein, no Director, officer or employee may solicit the private contribution of funds without prior approval of the Board.

The Institutional Advancement Committee will receive at each quarterly Board meeting a prospect list of those individuals, corporations, or other entities that may be approached for gifts or grants which it will forward to the Board for its approval. Additional Prospects may be approved by the Board at any of its duly convened meetings.

Exempt from this requirement, but subject to the approval of the President of LSC, are 1) solicitations for modest donations not to exceed a total of \$5,000 per event for LSC staff events/functions and 2) fundraising among LSC staff for charitable causes.

b. Unsolicited Gifts

LSC Directors, officers and employees are authorized to discuss unsolicited offers of donations that are aligned with LSC’s priorities and mission with the potential donor and will notify such prospective donor that a donation may be accepted only with the approval of the LSC President or his/her designee. If the offered donation is less than \$5,000, the LSC President or his/her designee is authorized to accept the donation if he or she deems it appropriate. For offered donations of \$5,000 or more, the LSC President or his/her designee may accept such donations with reasonable prior notice to the Board

c. Gifts Subject to Board Review and Approval Prior to Acceptance

All gifts, other than unrestricted cash contributions and those for Board-approved initiatives or projects listed in Section 2 from Board-approved Prospects, must be reviewed and approved by the Board prior to acceptance.

d. Marketable Securities

Unrestricted marketable securities shall be transferred to an account maintained by LSC at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. All marketable securities shall be sold as soon as practical following receipt unless otherwise directed by the Board.

e. Non-Marketable Securities

Non-marketable securities, including debt and equity positions in non-publicly traded companies, interests in limited liability partnerships and limited liability corporations, or other ownership forms, will be considered under the terms of gift acceptance detailed in Section 1. The Board shall review and decide whether to accept non-marketable securities based on the following factors:

- i. Restrictions on the security that would prevent LSC from ultimately converting the securities to cash;
- ii. The marketability of the securities; and
- iii. Any undesirable consequences for LSC from accepting the securities.

The Board may seek review and advice by an outside professional before deciding to accept the gift. Non-marketable securities shall be sold as quickly as possible.

f. Bequests

Donors may make bequests to LSC under their wills and trusts. LSC will not record a bequest until the gift is received.

g. Charitable Remainder Trusts

LSC may accept designations as remainder beneficiary of a charitable remainder trust. LSC shall not accept appointment as trustee of a charitable remainder trust without Board approval.

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- i. Continue to pay the premiums;
- ii. Convert the policy to paid up insurance, or
- iii. Surrender the policy for its current cash value.

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k. Oil, Gas, and Mineral Interests

LSC may accept oil and gas property interests when appropriate.

l. Named Funds

A donor, or group of donors, may contribute and name a fund and restrict the use of the income or principal of the fund. Named funds require a minimum contribution or pledge of \$100,000 and are subject to the Board's approval.

4. Notification to Donors

Whenever a grant or other contribution to LSC is received by the Corporation, the Chief Development Officer will prepare an acknowledgment for the President's signature and, so long as required by law, include a statement that funds contributed to LSC may not be used in any manner that violates the LSC Act or any provision of the Appropriations Act that applies to LSC.

5. Budgeting of contributions

All private funds received by LSC for the same purposes, whether in the form of grants or solicited or unsolicited contributions shall be accounted for separately. The Board shall approve the budgeting of such funds using the same LSC Budget Guidelines that apply to all other LSC funds. If contributed funds carry restrictions, acceptance of the funds is subject to a determination by the General Counsel that LSC may legally accept the funds.

6. Expenditures from contributed funds

Contributed funds shall be spent in accordance with the LSC Administrative Manual and are subject to the same approval requirements as contained in the Manual. In the event that contributed funds are to be used to pay for expenses for which federal funds may not be used, such contributed funds must be received and budgeted prior to any such expense being incurred. No federal funds shall be advanced to cover any expense intended to be paid for by private contributions.

7. Accounting

Should LSC engage in a solicitation of private contributions, the Comptroller shall provide an accounting of any additional expense to the Corporation associated with the solicitation.

8. Use of Legal Counsel

- a. **LSC.** The Board shall seek the advice of the Office of Legal Affairs in matters relating to acceptance of gifts when appropriate.
- b. **Donor.** For non-cash gifts, in order to avoid any potential conflicts of interest, LSC should encourage prospective donors to seek the assistance of their own legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences.

9. Ethical Considerations and Conflict of Interest

LSC is committed to the highest ethical business practices in fundraising. All donor engagement on behalf of LSC will adhere to LSC's Code of Ethics and Conduct and the Donor Bill of Rights. The Board shall seek the advice of LSC's Ethics Officer on the acceptance of any

gift or transaction that presents an actual or potential conflict of interest.

LSC shall not accept gifts that:

- a. Violate the terms of LSC’s organizational documents, including, but not limited to, the LSC Act, LSC appropriations acts, LSC regulations, or the LSC Code of Ethics and Conduct;
- b. Would jeopardize LSC’s status as a tax-exempt organization under federal or state law;
- c. Are for purposes that do not further LSC’s objectives; or
- d. Could damage LSC’s reputation.

10. Gift Agreements

Where appropriate, LSC shall enter into a written gift agreement with the donor, specifying the terms of any restricted gift, which may include provisions regarding donor recognition.

11. Pledge Agreements

Acceptance by LSC of pledges by donors of future support of LSC (including by way of matching gift commitments) shall be contingent upon the execution and fulfillment of a written charitable pledge agreement specifying the terms of the pledge, which may include provisions regarding donor recognition.

12. Fees

LSC will not accept a gift unless the donor is responsible for (1) the fees of independent legal counsel retained by donor for completing the gift; (2) appraisal fees; (3) all other third-party fees associated with the transfer of the gift to LSC.

13. Valuation

LSC shall record gifts received at their valuation on the date of gift, except that, when a gift is irrevocable, but is not due until a future date, the gift may be recorded at the time the gift becomes irrevocable in accordance with GAAP.

**Adopted on _____, 2013 and supersedes
Board Resolution nos. 2012-012, 2010-004, and 2008-013**

Board Member Giving Policy

To demonstrate commitment to the Legal Services Corporation's ("LSC's") mission and to establish credibility with potential funders, members of the Board of Directors ("Board") and related Board committees should make an annual gift themselves. Board members will give according to their means, at a level they deem appropriate in light of their personal circumstances.

Donor's Bill of Rights

The Legal Services Corporation (“LSC”) strives to ensure that all donations are used effectively, efficiently, and responsibly. To ensure that each donor can have full confidence in LSC and the donations we receive, we declare that all donors have the right:

- I. To be informed of the LSC’s mission, of the way LSC intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.
- II. To be informed of the identity of those serving on LSC’s Board of Directors (“Board”), and to expect the Board to exercise prudent judgment in its stewardship responsibilities.
- III. To have access to LSC’s most recent audited financial statements.
- IV. To be assured their gifts will be used for the purposes for which they were given. In the event that LSC is not able to use the gift for its intended purpose, the gift will be returned to the donor with an explanation.
- V. To receive appropriate acknowledgment and recognition.
- VI. To expect that all relationships between LSC and the donor will be professional in nature.
- VII. To be informed whether those seeking donations are Board members, LSC employees, or volunteers of LSC.
- VIII. To have the opportunity for their names to be deleted from any and all LSC mailing lists.
- IX. To ask questions when making a donation and to receive prompt, truthful, and forthright answers.
- X. To not have their information shared by LSC with organizations other than government entities, unless required by law.

Donor Privacy Policy

The types of donor information that LSC collects and maintains include, but are not limited to:

1. Contact information: name, address, telephone number, and email address;
2. Giving information;
3. Information on events attended, publications received and special requests for LSC information;
4. Information provided by the donor in the form of comments and suggestions.

The use and collection of information about donors is limited to that which is necessary to administer LSC's development operation.

LSC uses donors' information to understand their interests in its mission, to update them on LSC's plans and activities, to acknowledge and provide a tax receipt for donations, to respond to donor inquiries or questions about LSC, and as part of LSC's donor database. LSC will not lend, sell, or rent mailing lists of our donors to any third party. Donors may request to have their names deleted from any and all LSC mailing lists.

LSC will not guarantee complete anonymity of gifts, pursuant to IRS reporting requirements for charitable organizations.

Memorial Gifts and Gifts in Honor of Persons/Events

Gifts to LSC in memory of a person or in honor of a person or event are always welcome and provide a thoughtful tribute to family and friends.

Donors wishing to attribute gifts as memorials or in honor of an individual or event should do so using the Donation Form, available at [INSERT LINK]. When the gift is tied to a specific objective, LSC will direct these gifts for the purpose of achieving the objective and send an acknowledgment to the person specified by the donor notifying him/her of the donor's gift. LSC will maintain records of these gifts. Memorial gifts and gifts in honor of a person or event that are not designated for a specific objective will be processed according to the policies and procedures of LSC.

IX. Private Attorney Involvement (PAI) Rulemaking Webinar

Legal Services Corporation
PAI Rulemaking Workshop
July 23, 2013
1:30 to 4:30 p.m.
Millennium Ballroom
Warwick Hotel
Denver, Colorado

Agenda

- I. Opening of the workshop and introductory remarks—5 minutes
- Charles Keckler, Chairman, Operations and Regulations Committee
 - Jim Sandman, President
 - Introduction of the panelists
 - Silvia Argueta, National Legal Aid and Defender Association (NLADA)
 - Steve Gottlieb, Atlanta Legal Aid Society
 - Judge Mary Katherine Huffman, Greater Dayton Volunteer Lawyers Project
 - Joan Kleinberg, Northwest Justice Project (Wash.)
 - Kenneth Penokie, Legal Services of Northern Michigan
 - Lisa Wood, ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID)
- II. Topic 1—45 minutes
- Panel presentations and discussion—30 minutes
 - Silvia Argueta, NLADA
 - Steve Gottlieb, Atlanta Legal Aid Society
 - Judge Mary Katherine Huffman, Greater Dayton Volunteer Lawyers Project
 - Kenneth Penokie, Legal Services of Northern Michigan
 - Lisa Wood, SCLAID
 - Public comment and further panel discussion—15 minutes

LSC Pro Bono Task Force Recommendation 2(a) - Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives.

- a. How are legal service providers engaging new categories of volunteers? What are the needs of these new categories of volunteers?
- b. What are the obstacles to LSC grant recipients' full use of these volunteers?
- c. Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the supervision and training of these volunteers?
- d. How can LSC ensure against fraud, waste, or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
- e. To the extent applicable, discuss how any approaches you recommend might be implemented.
- f. Other issues related to Topic 1.

LSC PAI Rulemaking Workshop Agenda
July 23, 2013

III. Topic 2—45 minutes

- Panel presentations and discussion—30 minutes
 - Silvia Argueta, NLADA
 - Steve Gottlieb, Atlanta Legal Aid Society
 - Judge Mary Katherine Huffman, Greater Dayton Volunteer Lawyers Project
 - Joan Kleinberg, Northwest Justice Project
 - Lisa Wood, SCLAID
- Public comment and further panel discussion—15 minutes

LSC Pro Bono Task Force Recommendation 2(b) - Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.

- a. How are recipients currently using integrated intake and referral systems?
- b. Do LSC's current PAI regulations inhibit full use of integrated intake and referral systems?
- c. Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to create and staff integrated intake and referral systems?
- d. How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
- e. To the extent applicable, discuss your organization's ability to execute any recommended approaches.
- f. Other issues related to Topic 2

IV. Topic 3—45 minutes

- Panel presentations and discussion—30 minutes
 - Silvia Argueta, NLADA
 - Steve Gottlieb, Atlanta Legal Aid Society
 - Joan Kleinberg, Northwest Justice Project
 - Kenneth Penokie, Legal Services of Northern Michigan
 - Lisa Wood, SCLAID
- Public comment and further panel discussion—15 minutes

Topic 3: LSC Pro Bono Task Force Recommendation 2(c) - LSC should reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.

- a. How are recipients currently using or supporting pro bono volunteers in brief service clinics?
- b. What are the obstacles to recipients' use of pro bono volunteers in brief service clinics?

LSC PAI Rulemaking Workshop Agenda
July 23, 2013

- c. Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics?
 - d. If LSC were to allow recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics under circumstances where the users of the clinics are not screened for LSC eligibility or accepted as clients of the recipient, how could that change be implemented in a manner that ensures compliance with legal restrictions on recipients' activities and uses of LSC funds?
 - e. How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
 - f. To the extent applicable, discuss your organization's ability to execute any recommended approaches.
 - g. Other issues related to Topic 3.
- V. Agenda for the September 17 workshop—30 minutes
- Panel discussion—20 minutes
 - Public comment and further panel discussion—10 minutes
- VI. Closing of the workshop
- Charles Keckler, Chairman, Operations and Regulations Committee



DISCUSSION GUIDELINES
LEGAL SERVICES CORPORATION
PAI RULEMAKING WORKSHOP
JULY 23, 2013
DENVER, COLORADO

The Private Attorney Involvement (PAI) rulemaking workshops are designed to enable LSC to meet with interested parties to discuss, but not negotiate, LSC rules and regulations. The Workshops for the PAI rule will be meetings at which the panelists and participants hold open discussions to share ideas regarding how to revise the PAI rule, 45 C.F.R. Part 1614, in a manner responsive to the Recommendation 2 of LSC's Pro Bono Task Force (PBTF) Report.

Workshop materials, including the PAI rule, agenda, PBTF report, the referenced LSC Office of Legal Affairs opinions, and comments submitted for the workshop, are posted on the PAI rulemaking workshop webpage on www.lsc.gov at <http://bit.ly/PAIrulemakingdetails>.

The workshops are forums for the panelists to draw on their expertise to discuss the three identified topics to provide LSC with information and feedback. The written materials cover a number of issues from a variety of perspectives. Through the workshop, the panelists can discuss their perspectives on the issues raised by the workshop materials, by their fellow panelists, by the three recommendations of the Pro Bono Task Force (PBTF), and by public comments. The workshop is not designed to develop consensus on any specific issues. Rather, the workshop should improve LSC's understanding of the issues and the implications of different approaches.

The topics and related items for discussion are provided in the attached checklist. They also appear in the Federal Register notice at 78 Fed. Reg. 27339 (May 10, 2013), which is provided on the PAI workshop webpage (as linked to above).

The July 23 workshop is divided into four sessions as identified in the attached agenda. Each of the three topics is assigned a 45-minute session. Each session begins with thirty minutes for panelist presentations and discussion. Each panelist in a session will have six minutes for her or his presentation. The remaining fifteen minutes are allocated for public comments and further panelist discussion. The final session is reserved for considering any additions or changes to the agenda or format for the second workshop on September 17, 2013.

Moderator

Jim Sandman, LSC President, will moderate the workshop.

Scope of Discussion

The workshop is limited to discussion of the topics and related issues identified in the Federal Register notice, as listed in the attached checklist. Other aspects of the PAI rule and other LSC requirements and restrictions may be addressed as they relate to these topics.

Discussion Guidelines
July 2013 PAI Rulemaking Workshop
Page 2 of 2

Familiarity with the Materials

The panelists should presume that all the participants are familiar with the regulation, the PBTF report, the referenced LSC Office of Legal Affairs opinions, the comments submitted, and other materials on the PAI workshops webpage. Presentations and discussion should build on, rather than report on, those materials.

Additional Materials

The comment period will remain open through the September workshop and will close on October 17, 2013. Panelists are encouraged to identify other materials that are useful and relevant to these topics. LSC can collect those materials after this workshop for addition to the PAI workshops webpage and for discussion at the September workshop. Panelists are also encouraged to submit further comments based on the workshop discussion.

Panelist Presentations and Discussion

In each of the sessions, each panelist can make six-minute remarks about the issues that she or he considers most important for discussion at this workshop.

Public Comment

In each of the four sessions, there is an opportunity for public comment following the panelist presentations. Comments, which must be brief, can be presented in-person or through the call-in webinar.

LSC Board Members and Staff

LSC board members and LSC staff will not make presentations and do not expect to actively participate. Nonetheless, LSC staff will be available for panelist questions, and LSC board members may ask questions for the panel to address.

Regulatory Language

The workshop is not designed to develop specific regulatory language, although the discussions may involve identifying areas for clarification of, or changes to, the regulation. Changes to the regulation, if any, would occur at a later stage of the rulemaking process.

Federal Register Notice

LEGAL SERVICES CORPORATION**45 CFR Part 1614****Private Attorney Involvement**

AGENCY: Legal Services Corporation.

ACTION: Notice of rulemaking workshops and request for expressions of interest in participating in the rulemaking workshops.

SUMMARY: The Legal Services Corporation (LSC) is conducting two Rulemaking Workshops (Workshops) and is requesting public comments on revising LSC's Private Attorney Involvement (PAI) rule to respond to Recommendation 2 of LSC's Pro Bono Task Force Report. The discussions in the Workshops and the other comments received will be considered in connection with rulemaking by LSC. LSC solicits expression of interest in participating as a panelist in the Workshops from the recipient community, the organized bar, pro bono organizations, and other interested parties.

DATES: Expressions of interest in participating as a panelist must be received by 5:30 p.m. EDT on June 25, 2013 for the first Workshop, and August 20, 2013 for the second Workshop. Written comments recommending additions, deletions, or modifications to the Topics for Discussion, including relevant alternatives, in the Workshops, or written comments on revising LSC's PAI rule, 45 CFR part 1614, to respond to Recommendation 2 of LSC's Pro Bono Task Force Report must be received by 5:30 p.m. EDT on June 25, 2013 for consideration for discussion at the first Workshop, and August 20, 2013 for the second Workshop. The final agenda for the first Workshop will be published on July 18, 2013, and on September 12, 2013 for the second Workshop. All written comments on revising the PAI rule, 45 CFR part 1614, must be received by 5:30 p.m. EDT on October 17, 2013.

ADDRESSES: Written comments submitted to LSC must be in .pdf format (if submitted electronically) and sent to PAIRULEMAKING@lsc.gov. If submitted via facsimile, or in hard copy, please address the comments to Mark Freedman, Senior Assistant General Counsel, Legal Services Corporation, 3333 K St NW., Washington, DC 20007; (202) 337-6519 (fax). Written comments sent by any other means, or received after the end of the comment period, may not be considered by LSC.

FOR FURTHER INFORMATION CONTACT: Mark Freedman, Senior Assistant General Counsel, Legal Services Corporation, 3333 K St. NW.,

Washington, DC 20007; (202) 295-1500 (phone); 202-337-6519 (fax); or PAIRULEMAKING@lsc.gov.

SUPPLEMENTARY INFORMATION:**I. Background Information**

On January 26, 2013, the LSC Board of Directors (LSC Board) voted to authorize LSC to initiate rulemaking to consider revisions to 45 CFR part 1614, Private Attorney Involvement (PAI rule) to respond to Recommendation 2 of LSC's Pro Bono Task Force, available at http://www.lsc.gov/sites/default/files/LSC/lscgov4/PBTF_%20Report_FINAL.pdf. The recommendation suggests LSC should reexamine the regulation in three areas:

1. Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives;

2. Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients; and

3. LSC should reexamine the rule that mandates adherence to LSC grantee case handling requirements including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.

On April 14, 2013, the LSC Board voted to convene two Workshops in connection with the rulemaking. The Workshops will be held as a Web-broadcast via Internet connection (Webinar) from LSC's Board meeting in Denver, Colorado on July 23, 2013, at the Warwick Denver Hotel, 1776 Grant St., Denver, Colorado 80203 from 1:30 p.m.-4:30 p.m. MDT, and on September 17, 2013, at the F. William McCalpin Conference Center, Legal Services Corporation Headquarters, 3333 K Street NW., Washington, DC 20007, from 1:30 p.m.-4:30 p.m. EDT. Participants are invited to attend in person, via Webinar, or telephonically via a conference bridgeline. Information about how to participate is available on LSC's Web site at <http://www.lsc.gov/information-rulemaking-workshops-re-lscs-private-attorney-involvement-pai-regulation-and-request>.

II. Nature of the Workshops

Rulemaking workshops enable LSC to meet with interested parties to discuss, but not negotiate, LSC rules and regulations. The Workshops for the PAI rule will be meetings at which the panelists and participants hold open discussions to share ideas regarding

how to revise the PAI rule in a manner responsive to the Recommendation 2 of LSC's Pro Bono Task Force Report.

III. Public Participation: Panelists and Open Comment

LSC is inviting expressions of interest from the public to participate in either or both Workshops as a panelist. Expressions of interest in participating as a panelist should be submitted, in writing, to Mark Freedman, Senior Assistant General Counsel, Legal Services Corporation; via email to PAIRULEMAKING@lsc.gov; via fax to 202-337-6519; or by hard copy mailed to 3333 K Street NW., Washington, DC 20007. All expressions of interest for the first Workshop must be received by 5:30 p.m. EDT on June 25, 2013 and August 20, 2013 for the second Workshop. LSC will select panelists shortly thereafter and will inform all those who expressed interest whether or not they have been selected.

The Workshops will be open to public observation, and portions of the Workshop will be open for public comment from in-person, Webinar, and telephone participants. Prior to the meeting, participants will be asked to register with LSC to ensure that sufficient arrangements can be made for their participation. Panelists and in-person participants are expected to cover their own expenses (travel, lodging, etc.). LSC may consider providing financial assistance to a panelist for whom travel costs would represent a significant hardship and barrier to participation. Any such person should so note in his/her expression of interest for LSC's consideration.

Through this notice, LSC is also opening a written comment period. LSC welcomes written comments during the comment period outlined below, under Submission of Comments, and will consider the comments received in the rulemaking process.

IV. Topics for Discussion

The following three topics and items for discussion will be addressed during the Workshops and are the subjects on which LSC seeks written comments. Each topic is directly from Recommendation 2 of LSC's Pro Bono Task Force Report. Members of the public are welcome to recommend additions, deletions, or modifications to these Topics for Discussion, including relevant alternatives, for LSC's consideration through written comment prior to the Workshops or by participation in the first Workshop.

Workshop panelists, and those wishing to make comments, may find

additional background information on each of these topics on the designated Workshops Web site at <http://www.lsc.gov/information-rulemaking-workshops-re-lscs-private-attorney-involvement-pai-regulation-and-request>.

Topic 1: LSC Pro Bono Task Force Recommendation 2(a)—Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives.

The Pro Bono Task Force identified several categories of pro bono volunteers as potential resources for LSC recipients to expand in the delivery of legal assistance. The Task Force noted that the LSC definition of "staff attorney," which is based on a compensation scheme standard, is a barrier to full engagement by recipients of deferred associates, law students, and recent law school graduates. LSC welcomes a full discussion of engaging new categories of pro bono volunteers and of improvements to the PAI regulation that would facilitate that engagement.

Items for Discussion on Topic 1:

- How are legal service providers engaging new categories of volunteers? What are the needs of these new categories of volunteers?
- What are the obstacles to LSC grant recipients' full use of these volunteers?
- Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the supervision and training of these volunteers?
- How can LSC ensure against fraud, waste, or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
- To the extent applicable, discuss how any approaches you recommend might be implemented.

Topic 2: LSC Pro Bono Task Force Recommendation 2(b)—Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.

The Pro Bono Task Force identified the benefits of integrated intake and referral systems that link clients to volunteer attorneys. Resources used by recipients to staff these integrated systems have not traditionally been recognized as eligible for PAI funds. LSC welcomes a full discussion of the relationship between integrated intake and referral systems that link clients with pro bono volunteers and the use of PAI funds.

Items for Discussion on Topic 2:

- How are recipients currently using integrated intake and referral systems?
- Do LSC's current PAI regulations inhibit full use of integrated intake and referral systems?
- Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to create and staff integrated intake and referral systems?
- How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
- To the extent applicable, discuss your organization's ability to execute any recommended approaches.

Topic 3: LSC Pro Bono Task Force Recommendation 2(c)—LSC should reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.

The Pro Bono Task Force encouraged brief service clinics in which pro bono volunteers rely on LSC recipients to provide technical assistance, research, advice, and counsel to the volunteers. If the recipient is not providing the client service, but is providing training to pro bono volunteers, the Pro Bono Task Force recommended that the resources the recipient uses to support the training be an eligible use for PAI funds, without obligating the pro bono volunteers to screen clients for LSC eligibility or requiring the recipient accept the people served by the clinics as its own clients. LSC welcomes a full discussion of the use of pro bono volunteers in such clinics and invites input on improvements to the existing regulations to facilitate such use.

Items for Discussion on Topic 3:

- How are recipients currently using or supporting pro bono volunteers in brief service clinics?
- What are the obstacles to recipients' use of pro bono volunteers in brief service clinics?
- Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics?
- If LSC were to allow recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics under circumstances where the users of the clinics are not screened for LSC eligibility or accepted as clients of the

recipient, how could that change be implemented in a manner that ensures compliance with legal restrictions on recipients' activities and uses of LSC funds?

- How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
- To the extent applicable, discuss your organization's ability to execute any recommended approaches.

V. Submission of Comments

Members of the public are invited to submit recommended additions, deletions, or modifications to the above described Topics for Discussion, including relevant alternatives, for LSC's consideration, through written comment prior to the Workshops, or by participation in the first Workshop.

Written comments received prior to the Workshops may be addressed in the Workshops. Written comments are requested by June 25, 2013 for LSC to consider including in the first Workshop discussion, and August 20, 2013 for the second Workshop discussion.

Format of the Workshops

LSC plans to host two Workshops to maximize the opportunity for participation. Both of the meetings will include a panel discussion of the Topics for Discussion in this notice. The first Workshop will also include discussion of any recommendations for additions, deletions, or modifications of these Topics for Discussion. Panelists will be selected to represent a diversity of opinions and perspectives.

In addition to the panel, LSC encourages observation and participation by all interested individuals and organizations. The meeting agenda will include opportunities for individuals in attendance who are not members of the panel to participate in person, by webinar, or via telephone, as well as incorporating previously submitted written comments by those unable to attend. LSC plans to transcribe the meetings and make the webinar available on its Web site.

LSC has developed a designated Web site for the purposes of these Workshops and will update it as information becomes available. The final agenda for the Workshops will be available on the LSC Web site for the Workshops approximately five days prior. The Web address is <http://www.lsc.gov/information-rulemaking-workshops-re-lscs-private-attorney-involvement-pai-regulation-and-request>.

VI. Important Notes

Information received in response to this Notice of Rulemaking Workshops and Request for Expressions of Interest in Participation in the Rulemaking Workshops may be published or summarized by LSC without acknowledgement of or permission from you or your organization. Furthermore, your responses may be releasable to the public under the LSC's adoption of the Freedom of Information Act (FOIA), 42 U.S.C. 2996d, and the LSC FOIA regulation, 45 CFR part 1619. LSC, at its discretion, may request individual commenters to elaborate on information in their written comments.

Comments sent by any method other than email to PAIRULEMAKING@lsc.gov, or hard copy to Mark Freedman, Senior Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007, or received after the end of the comment period, may not be considered by LSC.

Dated: May 6, 2013.

Atitaya C. Rok,
Staff Attorney.

[FR Doc. 2013-11071 Filed 5-9-13; 8:45 am]

BILLING CODE 7050-01-P

LEGAL SERVICES CORPORATION

45 CFR Part 1614

Restrictions on Legal Assistance With Respect to Criminal Proceedings in Tribal Courts

AGENCY: Legal Services Corporation.

ACTION: Request for information.

SUMMARY: The Legal Services Corporation (LSC) is requesting public comments on issues associated with amending its regulations to align with the statutory authority granted to LSC under the Indian Arts and Crafts Amendment Act of 2010 (the IACAA). The IACAA amended the LSC Act to provide authority for LSC funds to be used by grantees to represent eligible persons in any and all criminal proceedings in tribal courts. Previously, the LSC Act and related regulations permitted representation only in criminal matters involving misdemeanors or lesser offenses in tribal courts. The information received as a result of this request will be considered in rulemaking undertaken by LSC.

DATES: Written comments must be received by August 23, 2013.

ADDRESSES: Written comments must be submitted by mail, fax, or email to

Atitaya Rok at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Atitaya Rok, Staff Attorney, Legal Services Corporation, 3333 K St. NW., Washington, DC 20007; (202) 295-1500 (phone); 202-337-6831 (fax); or lscrulemaking@lsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background Information

A. New Statutory Authorities

The IACAA amended the LSC Act to provide authority for LSC funds to be used by grantees to represent eligible persons in any and all criminal proceedings in tribal courts. Previously, the LSC Act and related regulations in 45 CFR part 1613 permitted representation only in criminal matters involving misdemeanors or lesser offenses in tribal courts.

A subsection of the IACAA, known as the Tribal Law and Order Act of 2010, Public Law 111-211, tit. II, 124 Stat. 2261 (the TLOA), includes new authorizations related to tribal court criminal proceedings. The TLOA increases the maximum jail sentence that any tribal court may impose from one to three years for any single offense. Prior to the TLOA, crimes (felonies, misdemeanors, or less serious offenses) within tribal jurisdiction (those not reserved to federal or state jurisdiction) that could result in jail sentences of more than one year upon successful prosecution were often referred by tribes to federal or state courts because of the tribal courts' inability to impose lengthier sentences.

In order to use this new sentencing authority, tribes must "opt in" and implement affirmative preconditions detailed in the TLOA, including, but not limited to, ensuring that judges in tribal courts have sufficient legal training to preside over criminal proceedings; affording the defendant the right to effective assistance of counsel and, if a defendant is indigent, providing the defendant with a licensed defense attorney at the tribe's expense; publishing the tribal government's criminal laws and rules of evidence and criminal procedure; and creating a system that maintains records of criminal proceedings. Public Law 111-211, tit. II, 124 Stat. at 2280.

In addition to the IACAA and TLOA, the Violence Against Women Reauthorization Act of 2013, Public Law 113-4, 127 Stat. 54 (the 2013 VAWA expands tribal courts' criminal jurisdiction to include crimes of domestic violence and dating violence

committed by non-Indians within a tribal court's jurisdiction.

B. Current LSC Requirements

LSC regulations currently reference the original language of the LSC Act, which explicitly carved out an exception to the general prohibition on the use of LSC funds in criminal proceedings for misdemeanors and lesser offenses in tribal courts: "[a] misdemeanor or lesser offense tried in an Indian tribal court is not a 'criminal proceeding.'" 45 CFR 1613.2.

On November 12, 2012, LSC Management informed grantees via Program Letter 12-3 that all grantees may use LSC funds to assist any eligible person charged with any offense in a criminal proceeding in a tribal court until such time the LSC Board of Directors (LSC Board) made an affirmative decision on the issue.

On January 26, 2013, the LSC Board authorized rulemaking to consider aligning the LSC regulations and the LSC Act. Pursuant to LSC's Rulemaking Protocol, 67 FR 69763 (Nov. 19, 2002), a Rulemaking Options Paper (ROP) is under development. This Request for Information (RFI) is issued to better understand the impact of the IACAA, TLOA, and the 2013 VAWA on grantees that are active in tribal courts.

II. Request for Information

LSC requests information from members of the public with any expertise or experience relating to criminal proceedings in tribal courts, the impact of TLOA or the 2013 VAWA on criminal laws of tribal government, or tribal court appointments of lawyers. Commenters are asked to respond to these general topics of discussion:

1. Do you or your organization currently undertake representations of criminal defendants in tribal courts?

a. If yes, please identify which tribal courts.

b. If no, do you or your organization have a formal or informal policy in place to provide or decline such representations?

c. Are you or your organization aware of any changes in the criminal laws of the tribal government and/or sentencing authority of the tribal courts that have been implemented in accordance with TLOA or the 2013 VAWA?

2. Do you or your organization anticipate undertaking representations of criminal defendants in tribal courts in the future?

a. If yes, please identify which tribal courts.

b. If no, will you or your organization create a formal or informal policy to provide or decline such representations?

PAI Rule

45 CFR PART 1614—PRIVATE ATTORNEY INVOLVEMENT

July 8, 2013

Contents

- § 1614.1 Purpose.
- § 1614.2 General policy.
- § 1614.3 Range of activities.
- § 1614.4 Procedure.
- § 1614.5 Prohibition of revolving litigation funds.
- § 1614.6 Waivers.
- § 1614.7 Failure to comply.

AUTHORITY: Sec. 1007(a)(2)(C) and sec. 1007(a)(3); (42 U.S.C. 2996f(a)(2)(C) and 42 U.S.C. 2996f(a)(3)).

SOURCE: 50 FR 48591, Nov. 26, 1985, unless otherwise noted.

§ 1614.1 Purpose.

(a) This part is designed to ensure that recipients of Legal Services Corporation funds involve private attorneys in the delivery of legal assistance to eligible clients. Except as provided hereafter, a recipient of Legal Services Corporation funding shall devote an amount equal to at least twelve and one-half percent (12½ %) of the recipient's LSC annualized basic field award to the involvement of private attorneys in such delivery of legal services; this requirement is hereinafter sometimes referred to as the "PAI requirement". Funds received from the Corporation as one-time special grants shall not be considered in determining a recipient's PAI requirement.

(b) Recipients of Native American or migrant funding shall provide opportunity for involvement in the delivery of services by the private bar in a manner which is generally open to broad participation in those activities undertaken with those funds, or shall demonstrate to the satisfaction of the Corporation that such involvement is not feasible.

(c) Because the Corporation's PAI requirement is based upon an effort to generate the most possible legal services for eligible clients from available, but limited, resources, recipients should attempt to assure that the market value of PAI activities substantially exceeds the direct and indirect costs being allocated to meet the requirements of this Part.

(d) As of January 1, 1986, the term "private attorney" as used in this Part means an attorney who is not a staff attorney as defined in § 1600.1 of these regulations.

(e) After the effective date of this regulation, no PAI funds shall be committed for direct payment to any attorney who for any portion of the previous two years has been a staff attorney as defined in § 1600.1 of these regulations; provided, however, that, for the remainder of the 1986 fiscal year, recipients may honor contractual arrangements made to such private attorneys if these arrangements were made before the effective date of this regulation; provided, further, however, that this paragraph shall not be construed to restrict the use of PAI funds in a *pro*

bono or *judicare* project on the same terms that are available to other attorneys; and provided further, however, that this paragraph shall not be construed to restrict the payment of PAI funds as a result of work performed by an attorney who practices in the same firm with such former staff attorney.

[50 FR 48591, Nov. 26, 1985, as amended at 51 FR 21559, June 13, 1986]

§ 1614.2 General policy.

(a) This part implements the policy adopted by the Board of Directors of the Corporation which requires that a substantial amount of funds be made available to encourage the involvement of private attorneys in the delivery of legal assistance to eligible clients through both *pro bono* and compensated mechanisms, and that such funds be expended in an economic and efficient manner.

(b) In the case of recipients whose service areas are adjacent, coterminous or overlapping, the recipients may enter into joint efforts to involve the private attorneys in the delivery of legal services to eligible clients, subject to the prior approval of the Office of Field Services. In order to be approved the joint venture plan must meet the following conditions:

(1) The recipients involved in the joint venture must plan to expend at least twelve and one-half percent ($12\frac{1}{2}\%$) of the aggregate of their basic field awards on PAI. In the case of recipients with adjacent service areas, $12\frac{1}{2}\%$ of each recipient's grant shall be expended to PAI; provided, however, that such expenditure is subject to waiver under § 1614.6;

(2) Each recipient in the joint venture must be a bona fide participant in the activities undertaken by the joint venture; and

(3) The joint PAI venture must provide an opportunity for involving private attorneys throughout the entire joint service area(s).

(c) Private attorney involvement shall be an integral part of a total local program undertaken within the established priorities of that program in a manner that furthers the statutory requirement of high quality, economical and effective client-centered legal assistance to eligible clients. Decisions concerning implementation of the substantial involvement requirement rest with the recipient through its governing body, subject to review and evaluation by the Corporation.

§ 1614.3 Range of activities.

(a) Activities undertaken by the recipient to meet the requirements of this part must include the direct delivery of legal assistance to eligible clients through programs such as organized *pro bono* plans, reduced fee plans, *judicare* panels, private attorney contracts, or those modified *pro bono* plans which provide for the payment of nominal fees by eligible clients and/or organized referral systems; except that payment of attorney's fees through "revolving litigation fund" systems, as described in § 1614.5 of this part, shall neither be used nor funded under this part nor funded with any LSC support;

(b) Activities undertaken by recipients to meet the requirements of this part may also include, but are not limited to:

(1) Support provided by private attorneys to the recipient in its delivery of legal assistance to eligible clients on either a reduced fee or *pro bono* basis through the provision of community legal education, training, technical assistance, research, advice and counsel; co-counseling arrangements; or the use of private law firm facilities, libraries, computer-assisted legal research systems or other resources; and

(2) Support provided by the recipient in furtherance of activities undertaken pursuant to this Section including the provision of training, technical assistance, research, advice and counsel, or the use of recipient facilities, libraries, computer assisted legal research systems or other resources.

(c) The specific methods to be undertaken by a recipient to involve private attorneys in the provision of legal assistance to eligible clients will be determined by the recipient's taking into account the following factors:

(1) The priorities established pursuant to part 1620 of these regulations;

(2) The effective and economic delivery of legal assistance to eligible clients;

(3) The linguistic and cultural barriers to effective advocacy.

(4) The actual or potential conflicts of interest between specific participating attorneys and individual eligible clients; and

(5) The substantive and practical expertise, skills, and willingness to undertake new or unique areas of the law of participating attorneys.

(d) Systems designed to provide direct services to eligible clients by private attorneys on either a *pro bono* or reduced fee basis, shall include at a minimum, the following components:

(1) Intake and case acceptance procedures consistent with the recipient's established priorities in meeting the legal needs of eligible clients;

(2) Case assignments which ensure the referral of cases according to the nature of the legal problems involved and the skills, expertise, and substantive experience of the participating attorney;

(3) Case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the result desired by the client and the efficient and economical utilization of recipient resources; and

(4) Access by private attorneys to LSC recipient resources, including those of LSC national and state support centers, that provide back-up on substantive and procedural issues of the law.

(e) The recipient shall demonstrate compliance with this part by utilizing financial systems and procedures and maintaining supporting documentation to identify and account separately for costs related to the PAI effort. Such systems and records shall meet the requirements of the Corporation's Audit and Accounting Guide for Recipients and Auditors and shall have the following characteristics:

(1) They shall accurately identify and account for:

(i) The recipient's administrative, overhead, staff, and support costs related to PAI activities. Non-personnel costs shall be allocated on the basis of reasonable operating data. All methods of allocating common costs shall be clearly documented. If any direct or indirect time of staff attorneys or paralegals is to be allocated as a cost to PAI, such costs must be documented by time sheets accounting for the time those employees have spent on PAI activities. The timekeeping requirement does not apply to such employees as receptionists, secretaries, intake personnel or bookkeepers; however, personnel cost allocations for non-attorney or non-paralegal staff should be based on other reasonable operating data which is clearly documented;

(ii) Payments to private attorneys for support or direct client services rendered. The recipient shall maintain contracts on file which set forth payment systems, hourly rates, and maximum allowable fees. Bills and/or invoices from private attorneys shall be submitted before payments are made. Encumbrances shall not be included in calculating whether a recipient has met the requirement of this part;

(iii) Contractual payments to individuals or organizations that undertake administrative, support, and/or direct services to eligible clients on behalf of the recipient consistent with the provisions of this part. Contracts concerning transfer of LSC funds for PAI activities shall require that such funds be accounted for by the recipient in accordance with LSC guidelines, including the requirements of the Audit and Accounting Guide for Recipients and Auditors and 45 CFR part 1627;

(iv) Other such actual costs as may be incurred by the recipient in this regard.

(2) Support and expenses relating to the PAI effort must be reported separately in the recipient's year-end audit. This shall be done by establishing a separate fund or providing a separate schedule in the financial statement to account for the entire PAI allocation. Recipients are not required to establish separate bank accounts to segregate funds allocated to PAI. Auditors are required to perform sufficient audit tests to enable them to render an opinion on the recipient's compliance with the requirements of this part.

(3) In private attorney models, attorneys may be reimbursed for actual costs and expenses. Attorney's fees paid may not exceed 50% of the local prevailing market rate for that type of service.

(4) All records pertaining to a recipient's PAI requirements which do not contain client confidences or secrets as defined by applicable state law shall be made available for inspection and review by LSC auditors and monitors during regular business hours.

§ 1614.4 Procedure.

(a) The recipient shall develop a plan and budget to meet the requirements of this part which shall be incorporated as a part of the refunding application or initial grant application. The budget shall be modified as necessary to fulfill this part. That plan shall take into consideration:

(1) The legal needs of eligible clients in the geographical area served by the recipient and the relative importance of those needs consistent with the priorities established pursuant to section 1007(a)(2)(C) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(C)) and part 1620 of the Regulations (45 CFR part 1620) adopted pursuant thereto;

(2) The delivery mechanisms potentially available to provide the opportunity for private attorneys to meet the established priority legal needs of eligible clients in an economical and effective manner; and

(3) The results of the consultation as required below.

(b) The recipient shall consult with significant segments of the client community, private attorneys, and bar associations, including minority and women's bar associations, in the recipient's service area in the development of its annual plan to provide for the involvement of private attorneys in the provision of legal assistance to eligible clients and shall document that each year its proposed annual plan has been presented to all local bar associations within the recipient's service area and shall summarize their response.

§ 1614.5 Prohibition of revolving litigation funds.

(a) A revolving litigation fund system is a system under which a recipient systematically encourages the acceptance of fee-generating cases as defined in § 1609.2 of these regulations by advancing funds to private attorneys to enable them to pay costs, expenses, or attorneys fees for representing clients.

(b) No funds received from the Legal Services Corporation shall be used to establish or maintain revolving litigation fund systems.

(c) The prohibition in paragraph (b) of this section does not prevent recipients from reimbursing or paying private attorneys for costs and expenses, provided:

(1) The private attorney is representing an eligible client in a matter in which representation of the eligible client by the recipient would be allowed under the Act and under the Corporation's Regulations; and

(2) The private attorney has expended such funds in accordance with a schedule previously approved by the recipient's governing body or, prior to initiating action in the matter, has requested the recipient to advance the funds.

(d) Nothing in this section shall prevent a recipient from recovering from a private attorney the amount advanced for any costs, expenses, or fees from an award to the attorney for representing an eligible client.

§ 1614.6 Waivers.

(a) While it is the expectation and experience of the Corporation that most basic field programs can effectively expend their PAI requirement, there are some circumstances, temporary or permanent, under which the goal of economical and effective use of Corporation funds will be furthered by a partial, or in exceptional circumstances, a complete waiver of the PAI requirement.

(b) A complete waiver shall be granted by the Office of Field Services (OFS) when the recipient shows to the satisfaction of OFS that:

(1) Because of the unavailability of qualified private attorneys, an attempt to carry out a PAI program would be futile; or

(2) All qualified private attorneys in the program's service area either refuse to participate or have conflicts generated by their practice which render their participation inappropriate.

(c) A partial waiver shall be granted by OFS when the recipient shows to the satisfaction of OFS that:

(1) The population of qualified private attorneys available to participate in the program is too small to use the full PAI allocation economically and effectively; or

(2) Despite the recipient's best efforts too few qualified private attorneys are willing to participate in the program to use the full PAI allocation economically and effectively; or

(3) Despite a recipient's best efforts,—including, but not limited to , communicating its problems expending the required amount to OFS and requesting and availing itself of assistance and/or advice from OFS regarding the problem—expenditures already made during a program year are insufficient to meet the PAI requirement, and there is insufficient time to make economical and efficient expenditures during the remainder of a program year, but in this instance, unless the shortfall resulted from unforeseen and unusual circumstances, the recipient shall accompany the waiver request with a plan to avoid such a shortfall in the future; or

(4) The recipient uses a fee-for-service program whose current encumbrances and projected expenditures for the current fiscal year would meet the requirement, but its actual current expenditures do not meet the requirement, and could not be increased to do so economically and effectively in the remainder of the program year, or could not be increased to do so in a fiscally responsible manner in view of outstanding encumbrances; or

(5) The recipient uses a fee-for-service program and its PAI expenditures in the prior year exceeded the twelve and one-half percent (12½ %) requirement but, because of variances in the timing of work performed by the private attorneys and the consequent billing for that work, its PAI expenditures for the current year fail to meet the twelve and one-half percent (12½ %) requirement; or

(6) If, in the reasonable judgment of the recipient's governing body, it would not be economical and efficient for the recipient to expend its full 12½ % of Corporation funds on PAI activities, provided that the recipient has handled and expects to continue to handle at least 12½ % of cases brought on behalf of eligible clients through its PAI program(s).

(d) (1) A waiver of special accounting and bookkeeping requirements of this part may be granted by the Audit Division with the concurrence of OFS, if the recipient shows to the satisfaction of the Audit Division of OFS that such waiver will advance the purpose of this part as expressed in §§ 1614.1 and 1614.2.

(2) As provided in 45 CFR 1627.3(c) with respect to subgrants, alternatives to Corporation audit requirements or to the accounting requirements of this part may be approved for subgrants by the Audit Division with the concurrence of OFS; such alternatives for PAI subgrants shall be approved liberally where necessary to foster increased PAI participation.

(e) Waivers of the PAI expenditure requirement may be full or partial, that is, the Corporation may waive all or some of the required expenditure for a fiscal year.

(1) Applications for waivers of any requirement under this part may be for the current, or next fiscal year. All such applications must be in writing. Applications for waivers for the current fiscal year must be received by the Corporation during the current fiscal year.

(2) At the expiration of a waiver a recipient may seek a similar or identical waiver.

(f) All Waiver requests shall be addressed to the Office of Field Services (OFS) or the Audit Division as is appropriate under the preceding provisions of this Part. The Corporation shall make a written response to each such request postmarked not later than thirty (30) days after its receipt. If the request is denied, the Corporation will provide the recipient with an explanation and statement of the grounds for denial. If the waiver is to be denied because the information submitted is insufficient, the Corporation will inform the recipient as soon as possible, both orally and in writing, about what additional information is needed. Should the Corporation fail to so respond, the request shall be deemed to be granted.

§ 1614.7 Failure to comply.

(a) If a recipient fails to comply with the expenditure required by this part and if that recipient fails without good cause to seek a waiver during the term of the grant or contract, the Corporation shall withhold from the recipient's support payments an amount equal to the difference between the amount expended on PAI and twelve and one-half percent (12½%) of the recipient's basic field award.

(b) The withholding of funds under this section shall not be construed as any action under 45 CFR part 1606.

(c) Any funds withheld by the Corporation pursuant to this section shall be made available by the Corporation for use in providing legal services in the recipient's service area through PAI programs. Disbursement of these funds shall be made through a competitive solicitation and awarded on the basis of efficiency, quality, creativity, and demonstrated commitment to PAI service delivery to low-income people.

(d) The withholding of funds under this section shall not be construed as a termination of financial assistance under part 1606 of these regulations or a denial of refunding under part 1625 of these regulations.

[50 FR 48591, Nov. 26, 1985, as amended at 78 FR 10097, Feb. 13, 2013]

**PAI Excerpt from Report of
Pro Bono Task Force**

Recommendation 2: LSC Should Revise Its Private Attorney Involvement (PAI) Regulation to Encourage Pro Bono.

LSC's Private Attorney Involvement (PAI) regulation, promulgated in its current form in 1985, directs grantees to expend 12.5% of their basic field grants to encouraging "the involvement of private attorneys in the delivery of legal assistance to eligible clients."⁵⁰ Specifically, it provides that private attorney involvement "shall be an integral part of a total local program undertaken" to further the "statutory requirement of high quality economical and effective client-centered legal assistance to eligible clients."⁵¹ Decisions about how to implement the "substantial involvement" requirement rest with the local LSC grantees and their boards, but those decisions are subject to "review and evaluation" by LSC.⁵²

The PAI regulation has resulted in increased collaboration between LSC grantees and private attorneys; however, because of changing realities in the legal market, there are certain areas

where the regulation might productively be revised to ensure that LSC grantees can use their grants to foster pro bono participation. Section 1614.3 of the regulation describes the range of activities that may be counted toward the PAI requirement and the ways costs related to the PAI effort are identified and accounted for. In practice, the regulation poses complications in certain areas for LSC grantees. LSC therefore should reexamine the regulation in the following areas:

(a) Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives. Because they are not considered "private attorneys," contributions of law students or graduates not yet admitted to the bar do not count toward grantees' PAI requirements.⁵³ Contributions from law school clinics can be counted only if a private attorney supervises the students (including a professor because the professor is considered a "private attorney").⁵⁴ Engaging students and instilling a lasting commitment

to pro bono work is wholly consistent with the aims of the PAI regulation. The LSC Board therefore should consider amending the regulation to allow grantee organizations to count as PAI expenses the funds they expend on training and supervising law students.

Similarly, in recent years there has been a large increase in the number of private attorneys and law graduates who are not employed, and many of them have sought to gain experience while giving back to their communities through pro bono work. Although these lawyers are a great potential resource, engaging them requires time and resources on the part of LSC grantees. For example, one LSC grantee wanted to create an "incubator" program under which it would train attorneys and recent graduates and then pay them to take cases after they left the program (and in the case of the recent graduates, after they passed the bar). The program was designed to benefit the attorneys by giving them a start in practice, to benefit the grantee by providing trained attorneys to handle cases for a modest payment, and to benefit low-income clients by increasing the supply of available lawyers. In Advisory Opinion 2009-1007, LSC held that payments to the lawyers after they left the "incubator" could count toward the grantee's PAI obligation only if the payments were not more than 50% of the lawyers' total compensation. Whether the funds were counted therefore depended on whether the lawyer was able to find another job. As a practical matter, this makes the use of PAI funds for these programs very difficult since attorneys who are not otherwise employed are unlikely to know how much of their income will come from the grantee and how much from other sources until the end of the year. This leaves the grantee uncertain about whether its payments count as PAI until the end of the year as well.



Left to right: The Honorable James E. Doyle of Foley & Lardner LLP, and Ronald S. Flagg of Sidley Austin LLP



When Mrs. P., a Spanish-speaking, 74 year-old victim of domestic violence, sought assistance with a divorce, Bay Area Legal Services referred her to a bilingual pro bono attorney in the area. Mrs. P. had been married in 1953. Her husband had a gambling problem and, one day when Mrs. P. went to the local casino to find him, he grabbed her by her blouse, lifted her and pushed her against the wall. He was arrested after the police saw the attack on the the casino's videos. Mrs. P. later found out that her husband had been taking all of her Social Security checks. The volunteer attorney who took Mrs. P.'s case succeeded in obtaining a divorce for her and obtained a court order that she was to receive half of the monthly benefit from Mr. P.'s Florida Retirement System Pension and half of Mr. P.'s military retirement benefits via Qualified Domestic Relations Orders (QDROS). The pro bono attorney secured the services of another volunteer experienced with QDROS to help with that process. The pro bono lawyer was so inspired by her experience that she shared them with the Tampa Bay Hispanic Bar Association, and encouraged others to take on cases of their own.

(b) Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.

Currently, LSC grantees cannot count money spent to support centralized screening and referral services as PAI, even where those referral services are needed to support pro bono programs. In Advisory Opinion 2009-1004, for example, one LSC grantee used non-LSC funds to pay for a statewide hotline that provided advice and referrals. After being screened through the hotline, LSC-eligible clients were referred back to one of the four LSC-funded organizations in the state. LSC concluded that the organization that funded the hotline could not count the expense toward its PAI obligation because the legal aid lawyers who staffed it received more than 50% of their compensation from the LSC-funded agency that housed the hotline, and none of the organizations that accepted referrals from the hotline could count them as PAI cases either.

The same issue arose again in Advisory Opinion 2011-001, where an LSC grantee was not permitted to count the staff salaries it paid a centralized screening and referral unit as PAI expenditures. This unit screened cases before referring them to a network of volunteer attorneys in the grantee's service area. The clients served met LSC's eligibility guidelines, but they were not counted as part of the grantee's caseload and the grantee did not take responsibility for determining the outcome of the referrals.

The Task Force has reported on how efficient it is to have integrated intake and referral systems and how difficult it is to find outside funding for them. The LSC Board of Directors thus should consider amending the regulation to allow such models.

(c) LSC should reexamine the rule that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.

LSC grantees are under strict guidelines about what cases they can and cannot handle. Furthermore, resource constraints often force grantees to make tough decisions about what types of cases that meet the guidelines they can take. Yet, under the PAI regulations, grantees cannot count placement of any cases that they are not themselves able to accept. The regulation poses challenges to effective pro bono collaborations, as illustrated by Advisory Opinion 2008-1001. There, an LSC-funded organization serving a large rural area in the Midwest provided organizational assistance and technical support to a number of walk-in clinics (sponsored by churches, local bar associations, and government social welfare agencies). These clinics did not screen clients for LSC eligibility and, at the insistence of the organizations that supported the clinics, the LSC-funded organization did not treat the people who came to the clinics as its own clients. The program, which is located in an area with few private attorneys and where it has been very difficult to establish successful PAI programs in the past, sought to count the cost of the organizational assistance and technical support against its PAI requirement. LSC found that the people served by the clinics had to be screened for LSC eligibility, determined to be eligible, and accepted as clients of the LSC-funded organization before the costs of the program could count for PAI purposes.

As noted elsewhere in this report, such collaborative efforts are only possible with the support and substantive





Left to right: Esther F. Lardent of the Pro Bono Institute, and Frank B. Strickland of Strickland Brockington Lewis LLP

expertise of legal aid lawyers. Thus, a degree of flexibility is required in the rule.

In summary, the PAI regulation poses challenges as local organizations attempt to develop innovative programs to promote efficiency and effectiveness in their partnerships with others. The Task Force therefore recommends a thoughtful effort to reexamine the regulation to ensure that it effectively encourages pro bono participation.

Recommendation 3: LSC Should Launch a Public Relations Campaign on the Importance of Pro Bono.

Members of the private bar can help alleviate the justice gap, but many either do not know about the justice gap or do not know how they can help. Lawyers may not know about the extraordinary need for their pro bono contributions. Policymakers often are not aware of the importance of legal aid. Leaders in the legal community therefore should work together to increase public awareness of these issues.

As a starting point, LSC should convene a small group to explore launching a national public relations campaign to: (1) raise awareness, both within and outside of the legal profession, about the continuing crisis in legal aid for the poor; (2) encourage members of the bar to help solve that crisis by taking on pro bono matters and donating to legal aid organizations; and (3) generally promote and celebrate the accomplishments of legal aid lawyers across the country.⁵⁵

The idea of educating the public about the importance of legal aid is not new. Over the past ten years, several organizations – most notably NLADA, the Center for Law and Social Policy, and statewide AJCs – have done important work in this area. A number of states also have launched statewide campaigns aimed at increasing pro bono work among private attorneys. This includes the One Campaign,⁵⁶ a statewide campaign in Florida with the message that every lawyer in the state should take on *one* pro bono case; Maryland's Access to Justice Commission media kit entitled, *My Laws, My Courts*,

Alaska's *Early Resolution Program* schedules a number of divorce cases in a single court on one afternoon and then brings in pro bono lawyers to represent both sides. In its first year, 80% of cases resulted in settlements.

- ⁴¹ ABA Center for Pro Bono Exchange (Blog), <http://centerforprobono.wordpress.com/>
- ⁴² Social Media and Pro Bono: An Essential for Program Success, ABA Dialogue (Fall 2011) http://www.americanbar.org/content/newsletter/publications/dialogue_home/dialogue_archive/lis_dial_fa11_probono1.html.
- ⁴³ For example, pro bono programs should consider encouraging volunteers to complete the section on LinkedIn that asks users to include “Volunteer Experience & Causes” in their profile. A pro bono program’s loyal volunteers could use that tool to send a message to their LinkedIn colleagues about how they value pro bono in their legal careers. More information about the “Volunteer Experience & Causes” field in LinkedIn can be found at: <http://press.linkedin.com/node/870>.
- ⁴⁴ Aaron Smith, *Nearly Half of American Adults are Smartphone Owners*, Pew Internet (Mar. 1, 2012), <http://pewinternet.org/Reports/2012/Smartphone-Update-2012/Findings.aspx>.
- ⁴⁵ <https://lawhelpinteractive.org/>
- ⁴⁶ The American Recovery and Reinvestment Act also provided funds to expand broadband access in the United States through the Broadband Technologies Opportunities Program (BTOP). See *Broadband USA: Connecting America’s Communities*, NTIA, <http://www2.ntia.doc.gov/about>. Some of these resources already have been spent on legal services. In 2010, BTOP provided \$1.9 million to North Carolina Central University School of Law to “upgrade broadband services and deploy videoconferencing in five legal assistance facilities,” and \$4.1 million to the EdLab Group Foundation to “expand the capacity of local public computing centers,” including “five rural courts . . . where residents can apply for public assistance, access online legal resources, . . . and seek the help of legal volunteers.” See <http://www2.ntia.doc.gov/grantee/north-carolina-central-university>; <http://www2.ntia.doc.gov/grantee/edlab-group-foundation-formerly-known-as-the-puget-sound-center-foundation-for-teaching-lear>.
- ⁴⁷ These crowd-sourcing contests are detailed more fully in www.Challenge.gov.
- ⁴⁸ One excellent resource for leaders looking to build a good pro bono culture is Betty B. Stallings, *12 Key Actions of Volunteer Program Champions: CEO’s Who Lead the Way* (2005), which identifies the importance of leadership support in creating a pro-volunteer culture in an organization, <http://www.bettystallings.com/newbook/pdf/5-219-12KeyActions.pdf>
- ⁴⁹ The Management Information Exchange annual fundraising conference is one such source of training. The ABA Resource Center on Access to Justice Initiatives is another valuable source of technical support. See *Legal Aid Funding: Resources and Technical Assistance*, ABA Standing Comm. on Legal Aid & Indigent Rights, http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/funding_civil_legal_services.html.
- ⁵⁰ 45 C.F.R. § 1614.2(a).
- ⁵¹ 45 C.F.R. § 1614.2(c).
- ⁵² *Id.*
- ⁵³ External Opinion 2005-1001.
- ⁵⁴ *Id.*
- ⁵⁵ LSC already has retained a media consultant to produce a public service announcement (PSA) for LSC-grantees, which 20 LSC programs have signed on to use thus far.
- ⁵⁶ <http://onepromiseflorida.org/>
- ⁵⁷ <http://mdcourts.gov/mdatjc/pdfs/mediakit.pdf>
- ⁵⁸ ABA Standing Comm. on Legal Aid to Indigent Defendants, *Resource Center for Access to Justice Initiatives*, http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/communications_resources.html
- ⁵⁹ *Resources*, Celebrate Pro Bono: Nat’l Pro Bono Celebration, http://www.probono.net/celebrateprobono/resources/folder.323461-Civic_Speeches
- ⁶⁰ One possibility is that firms would pay a per fellow fee to some centralizing body, possibly LSC, to underwrite the cost of administering the program.
- ⁶¹ NCSC is a tremendous resource for data and information on efforts by state courts to increase pro bono participation.
- ⁶² CCJ and COSCA, comprised of the judicial and administrative leaders of state courts, are influential organizations that can impact widespread change and garner significant support for specific policies or programs. The CCJ has issued resolutions highlighting the importance of pro bono representation and urging state courts to take steps to increase pro bono service by their bar members. See CCJ, *Resolution 7: Encouraging Pro Bono Service in Civil Matters*, (Feb. 1997) <http://apps.americanbar.org/legalservices/probono/doc/resolutionvii.pdf>; CCJ, *Resolution 23: Leadership to Promote Equal Justice*, (Jan. 2001) <http://ccj.ncsc.dni.us/AccessToJusticeResolutions/resol23Leadership.html>; CCJ, *The Importance of Funding for the Legal Services Corporation from the Perspective of the Conference of Chief Justices and the Conference of State Court Administrators* (February 2012), http://ccj.ncsc.dni.us/pdfs/LSC_WHTPR.pdf ; ABA Standing Comm. on Pro Bono & Public Serv., *Judicial Promotion of Pro Bono*, <http://apps.americanbar.org/legalservices/probono/judicial/resolutions.html>.
- ⁶³ For example, Colorado’s Supreme Court recognizes on its web site those law firms, solo practitioners and in-house counsel groups who make a voluntary commitment to devoting 50 hours of pro bono legal services per year. See Colorado Supreme Court, *Pro Bono Legal Service Commitment and Recognition Program*, http://www.courts.state.co.us/Courts/Supreme_Court/Pro_Bono.cfm. Similarly, the District of Columbia courts recognize those who have provided more than 50 pro bono hours per year on the Capital Pro Bono Honor Roll. See D.C. Courts, *Pro Bono Honor Roll*, <http://www.dccourts.gov/internet/about/probonohonorroll/main.jsf>.
- ⁶⁴ *Celebrate Pro Bono: National Pro Bono Celebration Home*, <http://www.probono.net/celebrateprobono/>
- ⁶⁵ For a list of states which provide CLE credit for pro bono work, <http://apps.americanbar.org/legalservices/probono/clerules.html>.
- ⁶⁶ Otherwise, such rules have not been effective. For example, Washington State adopted a CLE for pro bono rule that also required that lawyers undergo a certain amount of training before they could obtain CLE credit for their pro bono work. Lawyers did not take advantage of the rule because it was difficult, especially for lawyers in rural areas, to access that training.
- ⁶⁷ ABA Standing Comm. on Pro Bono & Public Serv., *Judicial Promotion of Pro Bono*, http://apps.americanbar.org/legalservices/probono/judicial/statejudicialconduct.html#SI_KS.
- ⁶⁸ See, e.g., Rule XXII of the Rules Governing Admission to the Bar of Texas, <http://www.supreme.courts.state.tx.us/miscdoCKET/10/10917100.pdf> (allowing military lawyers allowed to represent service members and their families); D.C. App. Rule 49, <http://www.dccourts.gov/internet/documents/rule49.pdf> (dealing with federal government lawyers); ABA Standing



Office of Legal Affairs Opinions



OFFICE OF LEGAL AFFAIRS

EXTERNAL OPINION

External Opinion # EX-2008-1001

To: Thomas W. Weeks, Executive Director
Ohio State Legal Services Association
555 Buttles Avenue
Columbus, OH 43215-1137

Date: March 19, 2008

Subj: Requirement for Persons Assisted by PAI Attorneys to be Eligible
Program Clients

This is provided in response to your request for a formal opinion on whether persons being served by legal services clinics need to be screened for eligibility -- financial and otherwise -- and need to be considered clients of Ohio State Legal Services Association (OSLSA) in order for OSLSA to be able to count OSLSA's support to the clinics towards its Private Attorney Involvement (PAI) requirement under 45 CFR Part 1614.

Brief Answer

Yes, in order for OSLSA to allocate towards its Part 1614 PAI requirement the resources it provides to the clinics, the persons served by the clinics must be screened for eligibility, determined to be eligible and considered clients of OSLSA.

Background

As we understand the circumstances you described, OSLSA provides support to a number of legal services clinics operating in your service area. The clinics are collaborative efforts of churches, the local bar, OSLSA and, in some cases, governmental social welfare agencies. OSLSA provides a variety of "in-kind" support, including providing organizational assistance and providing technical support to the private attorneys serving in these clinics. OSLSA has been counting the value of the support it provides to these clinics towards its PAI requirement under LSC regulations at 45 CFR Part 1614.

As we understand it, the clinics are run on a "walk-in" basis and are intended to provide only limited services (brief service and advice) to clinic participants. The

persons served by these clinics are not screened for LSC-eligibility (financial, citizenship or alien status) and are not accepted as clients of OSLSA in accordance with OSLSA's eligibility and case acceptance policies.

During the course of a CSR/CSM review by LSC's Office of Compliance and Enforcement ("OCE"), OCE informed you that because of the lack of eligibility screening and because the clinic clients are not clients of OSLSA, OSLSA may not count the value of support it provides to the clinics towards its PAI allocation. You have asked this office for an opinion as to whether the OCE position is legally correct.

Analysis

Pursuant to LSC regulations at 45 CFR Part 1614, LSC grant recipients are required to devote an amount equal to at least 12.5% of their respective annualized basic field grant to the involvement of private attorneys in the delivery of legal services. 45 CFR §1614.1(a). An important aspect of the Part 1614 PAI program is that it is intended to involve private attorneys in the delivery of legal services to "*eligible clients.*" There are repeated references to the phrases "*eligible clients*" "legal assistance to *eligible clients,*" and "legal services to *eligible clients*" in nearly every section and subsection of the regulation. *See, e.g.* 45 CFR §§1614.1(a); 1614.1(c); 1614.2(a); 1614.2(b); 1614.2(c); 1614.3(a); 1614.3(b); 1614.3(c); 1614.3(d); 1614.4(a); 1614.4(b) (emphasis added).

If clinic applicants are not being screened for eligibility, there is no way to ensure that service is being provided to "eligible" clients. Further, under §1614.3(d) for ""systems designed to provide direct services to eligible clients" (which is the what the clinics OSLSA supports are), the program retains, *inter alia*, the responsibility to ensure that there are "intake and case acceptance procedures consistent with the recipients established priorities in meeting the legal needs of eligible clients" and to practice "case oversight" to ensure the client is being properly served.

Thus it has been the longstanding interpretation and practice of LSC that cases referred to private attorneys pursuant to a recipient's PAI program remain cases of the recipient and the clients in those cases remain clients of the recipient.¹ Not only is this position consistent with the plain language of the regulation, but it is consistent with the policy underlying the PAI program. The express object of the PAI requirement is to involve private attorneys in serving those people whom the recipient could otherwise serve if only they had the resources to do it. Underlying the program is a belief that, with judicious use of program resources for effective PAI programs, the program can obtain more legal services for its eligible client population than it could would it to

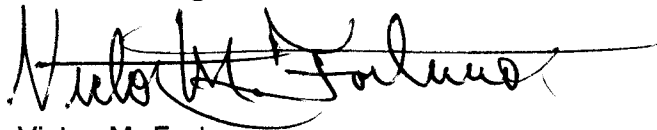
¹ Please note that this position was most recently expressly reiterated in the preamble to the revision of the Financial Eligibility rule at 45 CFR Part 1611. *See, 70 Fed. Reg. 45545 at 45562 (August 5, 2005).*

spend all of its resources providing direct services itself. *See*, Preamble to PAI Final Rule, 50 Fed. Reg. 48587 at 48587 (November 26, 1985) ("Widespread use of PAI promises to make available to eligible clients a greater diversity in services and a higher degree of specialization than would be available through a necessarily limited number of staff attorneys.").

Your letter expresses concern that requiring OSLSA to ensure that applicants are screened for eligibility and accept such persons as clients of OSLSA in order to permit OSLSA to count the value of the support it provides to the clinics towards its PAI allocation would have adverse consequences to the clinic program. Your letter does not, however, specifically address how this might be so.² Of course, OSLSA may continue to provide support to the clinics without having to consider the persons served by the clinic attorneys as clients of OSLSA. In such case, however, OSLSA would not be able to count that support towards OSLSA's PAI requirement and, pursuant to 45 CFR Part 1610, would have to ensure that it was not subsidizing any restricted activities.³

While this may not be the reply you had anticipated, it should clear up the question and be helpful in determining how to proceed. Of course, if you have any remaining questions, or if you know of additional information that might affect the outcome under the above analysis, please do not hesitate to let me know.

With best regards,



Victor M. Fortunato
Vice President & General Counsel

² In fact, you state in your letter your belief that the vast majority of persons served by the clinics are LSC-eligible, with legal issues within your priorities. Thus it does not appear that applying OSLSA's eligibility and case acceptance criteria would adversely affect the ability of most persons seeking assistance to be able to obtain it from the clinics. At the same time, you do not provide any information to suggest that screening applicants and accepting them as OSLSA clients would be in any manner administratively burdensome or problematic. We would note in this context that OLA is aware that many other recipients provide various in-kind services in support of successful PAI direct service programs in which applicants are screened for eligibility and are accepted as clients of the recipient.

³ For example, OSLSA should be aware that without any citizenship/eligible alien status screening, we believe it would be very difficult for OSLSA to be able to ensure that its support of the clinics was not subsidizing restricted activity (the provision of service to ineligible aliens).

OFFICE OF LEGAL AFFAIRS

ADVISORY OPINION

Advisory Opinion # AO – 2009-1004

SUBJ: Subgrants to Staff-Model Legal Services Provider; Qualification as PAI under 45 CFR Part 1614

DATE: June 19, 2009

Question Presented

May a recipient which makes a grant of non-LSC funds to a staff-model legal services provider who provides direct legal assistance to eligible clients count those funds towards its PAI requirement and count those cases as PAI cases in its Case Service Report (CSR)?

Brief Answer

A recipient may not generally count towards its PAI spending requirement funds provided as a subgrant to a staff-model legal services provider used for the provision of direct legal assistance by the attorneys employed by that provider. Similarly, a program may generally not report such cases as PAI in its CSR.

Factual Background

A recipient contracts with another state-wide, non-LSC legal services provider, which itself is a component of a former, but not current LSC grantee, which provides legal assistance to the low income community. The non-LSC legal services provider (hereinafter referred to as “the hotline”) conducts hotline services for four other staff-model legal services programs within the recipient’s state. The hotline is staffed by attorneys who conduct intake screening and then, depending on the case, will either provide direct service in the form of advice or will refer the caller to one of the appropriate programs with which the hotline contracts. The recipient currently uses non-LSC funds for its contract with the hotline. The recipient had been reporting these cases in its CSR. However, with the 2008 CSR Handbook, it is clear that the recipient can no longer do this and the recipient is not disputing this. However, the recipient has now asked whether they can consider the funds they spend on the hotline contract towards the recipient’s PAI requirement, which would allow them to report these cases in their CSR.

Analysis

The key to the question presented is whether the attorneys working for the hotline may be considered “private attorneys” under Part 1614. The term “private attorney” is defined in the PAI regulations as “an attorney who is not a staff attorney as defined in §1600.1 of these

regulations.” 45 CFR §1614.1(d). The definition of “staff attorney” in Part 1600 is “an attorney more than one half of whose annual professional income is derived from the proceeds of a grant from the Legal Services Corporation or is received from a recipient, subrecipient, grantee, or contractor that limits its activities to providing legal assistance to clients eligible for assistance under the [Legal Services Corporation] Act. 45 CFR §1600.1.

Definition of Staff Attorney and Subrecipient

Before turning to its application in the PAI context, it is necessary to first examine the meaning of the second prong of the definition of staff attorney in some detail.¹ Under that prong, a staff attorney is an attorney more than one half of whose professional income is received from a recipient, subrecipient, grantee, or contractor that limits its activities to providing legal assistance to clients eligible for assistance under the Act. The scope of this definition is not necessarily obvious on its face. OLA External Opinion EX-2003-1004 sets forth a lengthy and nuanced discussion of the definition, focusing on the distinction Congress was making between the staff-delivery model for the provision of legal assistance and the fee-for-service/judicare-model for the provision of legal assistance. EX-2003-1004 concludes that, *as staff-delivery model entities*, all LSC-funded basic field programs are encompassed within the definition, such that attorneys receiving one half of their professional income from an LSC recipient are staff attorneys.

The second prong of the definition of “staff attorney” however, is not limited to basic field program recipients, but includes “subrecipients” which limit their activities to providing legal assistance to clients eligible for assistance under the Act. Although Part 1600 does not contain a definition of “subrecipient,” that term is defined in Part 1627, Subgrants and Membership Fees or Dues. In that part, “subrecipient” is defined as “any entity that accepts Corporation funds from a recipient under a grant contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient’s programmatic activities.” 45 CFR §1627.2(b)(1). That section goes on to note that programmatic activities include things that the recipient “might otherwise be expected to be conducted directly by the recipient itself, such as the representation of eligible clients, or which provide direct support to a recipient’s legal assistance activities” *Id.* The definition also notes, however, that “programmatic activities” generally do not include fee-for-service arrangements such as those provided by attorneys and law firms on a contract or judicare basis.² *Id.*

¹ For the purposes of this analysis, since the recipient is not using LSC funds for its subgrant to the hotline, the hotline attorneys are not impacted by the first prong of the definition involving LSC funds.

² This distinction is made not because providing direct legal assistance to clients is not an activity a recipient would otherwise ordinarily do, but rather to acknowledge the distinction between the staff-model delivery system and the contract or judicare model of service involving a number of individual attorneys and law firms providing legal assistance in connection with private attorney involvement activities. See, 48 Fed. Reg. 54206, 54207 (November 30, 1983). LSC chose not to require subgrant approval for each of these judicare or PAI-fee cases. It should be noted, however, that section 1627.2(b)(1) does include as “programmatic activities” contract/judicare arrangements valued at over \$25,000, making them subject to the subgrant rule. The Corporation considered that a subgrant in such a large amount to one contract or judicare attorney would significant enough to merit requiring subgrant approval *Id.*

Whether a subrecipient “limits its activities to providing legal assistance to eligible clients under the [LSC] Act” requires reference back to of EX 2003-10004. As noted above, in that Opinion, OLA concluded that Congress meant to include all LSC recipients, as staff-model entities, even if they provided services to over-income clients or others not covered by the LSC Act. Similarly, in this limited context for PAI purposes, OLA reads this phrase to generally refer to staff-model legal services programs that primarily provide legal assistance to low income persons. Thus a subrecipient which is a staff-model entity is included in the definition, such that attorneys of subrecipients of LSC funds which are staff-model entities are staff attorneys. This reading is consistent with the general understanding of the distinction between staff-model legal services providers and more conventional market rate private attorneys.

Subrecipient for PAI Purposes

Taking the definitions of “staff attorney” and “subrecipient” together, that the term staff attorney includes any attorney, more than one half of whose professional income is received from a staff-model entity which accepts LSC funds from a recipient to perform programmatic activities. Thus, such attorneys could not qualify as “private attorneys” under Part 1614 and the programmatic activities carried out by such attorneys could not generally be considered to be PAI activities (and the funds spent on such subgrants could not be considered toward a recipient’s PAI spending requirement).³ Practical experience generally bears out that this is how the definitions have been understood and applied; LSC recipients have not, to OLA’s knowledge, subgranted LSC funds to other staff-delivery model legal services providers for the provision of legal assistance to clients by attorneys of the provider and sought to consider the attorneys providing those services as “private attorneys” or classify such activities as PAI activities.

The discussion above raises an obvious question. The definition of staff attorney in Part 1600 is connected to the use of LSC funds (either directly or indirectly via employment by an LSC recipient or staff-model subrecipient of LSC funds). However, what if the recipient is using non-LSC funds (as the recipient is doing to fund its contract with the hotline)? On its face, if a recipient used non-LSC funds to fund programmatic activities by a staff-delivery model provider, the attorneys working for that provider would not appear to be staff attorneys under the definition at Part 1600 and the those attorneys would, by definition, be considered “private attorneys” for the purposes of the PAI requirement. However, if this is so, whether or not an attorney would be a private attorney for PAI purposes would hinge on the source of the funds being used by the recipient to fund the purported PAI activity. Making a distinction about the source of the funds for the purpose of determining who is a private attorney for PAI purposes would, however, produce an absurd result clearly inconsistent with the remainder of the regulation. Non-LSC funds, when used for PAI purposes, are functionally treated as if they were LSC funds with all of the restrictions applicable to the LSC funds attached.⁴ There is no

³ Thus echoing the distinction Congress appeared to be making between the staff-delivery and fee-for-service/judicare legal assistance models discussed in EX-2003-1004.

⁴ For example, clients served by PAI attorneys must be LSC eligible regardless of the source of funds supporting the provision of those services; and PAI attorneys who are compensated are prohibited from claiming, collecting or

indication in the regulatory history that the Board of Directors had any intention to treat non-LSC funds differently than LSC funds for this one particular aspect of the regulation.

Thus, this Office believes that the most appropriate interpretation of the regulation is as follows: *For the purposes of the PAI rule*, where a staff-model legal services provider receives funds from an LSC recipient (regardless of the original source of the funds) to perform programmatic activities, an attorney who receives more than one half of his/her professional income from that staff-model legal services provider is not a “private attorney.”⁵ As such, direct legal assistance provided by those attorneys cannot qualify as PAI activity and a recipient may not report such cases as PAI cases on its CSR.⁶ Indeed, it appears, based on LSC’s practice and experience, that this is how the regulation has been understood and applied by grantees since its adoption.

Application of the Analysis to the Recipient and the Hotline Contract

In the instant case, the recipient is using non-LSC funds to support a program in which a significant number of cases handled directly by the hotline attorneys, with little or no referral attempted and the cases which are referred are referred back to either the recipient or one of the other staff-delivery model providers which also have contracts with the hotline. As such, neither the cases handled directly by the hotline attorneys nor those referred to the other providers who have provided funding to the hotline cannot be considered as having been handled by private attorneys. The recipient cannot, therefore, consider such cases as PAI cases, cannot report them on their CSR as such and cannot count the funds spent on the hotline contract towards its required PAI spending requirement.



Victor M. Fortunato
General Counsel

retaining attorneys’ fees, regardless of whether the compensation was derived from the grantee’s LSC or non-LSC funds. See, 45 CFR §1614.1; 45 CFR §1642.4(b).

⁵ The corollary to this would also appear to apply individual attorneys under the first prong of the definition of “staff attorney.” Under the first prong, any attorney more than half of whose professional income is derived from an LSC grant is a “staff attorney.” Applying the analysis above, any attorney who is receiving more than one half of his/her professional income derived from funds provided by an LSC recipient for the purpose of engaging in programmatic activities would not qualify as a “private attorney” for PAI purposes.

⁶ It should also be noted that there are certain programmatic activities which “staff attorneys” may perform the dollar value of which a recipient may count towards its PAI spending requirement. Nothing in this Opinion is intended to change or interfere with that authority. Thus, for example, nothing in this Opinion would preclude a recipient from allocating toward its PAI spending requirement the value of time spent by an attorney who qualifies as a “staff attorney” under this Opinion on intake and referral of cases involving eligible clients to private attorneys though a qualifying PAI program.

OFFICE OF LEGAL AFFAIRS

ADVISORY OPINION

Advisory Opinion # AO – 2009-1007

SUBJ: “Incubator Program” Attorneys Status as Staff Attorneys**DATE:** November 25, 2009

Questions Presented

Whether a person who worked on the staff of a recipient in connection with an “incubator program” intended to provide training and introduction to legal practice in the low income community would be a “staff attorney” for the recipient?

Whether a recipient would be prohibited from providing compensation to an attorney after that person was no longer serving on the staff of that recipient and/or charging that payment against the recipient’s private attorney involvement spending requirement under 45 CFR Part 1614?

Brief Answers

Any attorney participating in the “incubator program” who earns more than one half of his or her professional income from a recipient qualifies as a staff attorney.

A recipient could not make a payment to any attorney who qualified as a staff attorney for two years after the attorney was a staff attorney and charge that payment against the recipient’s private attorney involvement spending requirement under 45 CFR Part 1614.

Factual Background

A recipient would like to collaborate with a nearby law school to create an “incubator” program to provide training and assistance to law school graduates to establish independent law practice geared toward serving the low income community. As envisioned, the participants who would serve three to four internships at the recipient. Some of the participants, it is anticipated, would already be licensed attorneys. These persons would be hired and paid as program attorneys on a temporary employment basis. Others, however, would be persons who had just graduated from law school. For these participants, it is presumed that they would have taken the July bar exam, but would not be likely to have their results or (for those who passed) have been admitted to the bar during the majority of the period of internship with the recipient. Instead these persons would be hired and paid on a temporary basis as paralegals and would be permitted to perform some legal services under the supervision of recipient staff under state practice rules applicable to law students and recent graduates.

Following the period of employment with the recipient, the participants could then have several additional months of internship gaining legal practice experience in a structured community service setting organized under the auspices of the law school. Following the period of internship through the incubator program, the attorneys would be expected to establish independent private practices providing legal services to low income persons in the community. During the second internship period, and later on an ongoing basis in the lawyer's independent private practice, the recipient would like to be able to refer eligible clients to those lawyers and to pay those attorneys in accordance with its private attorney involvement (PAI) plan (and count the funds expended towards its PAI spending requirement under 45 CFR Part 1614.¹

This advisory opinion addresses the question as to whether the recipient would be permitted under LSC's private attorney involvement (PAI) regulation at 45 CFR Part 1614 to provide compensation to attorneys who had served in the incubator program and count those funds towards its PAI spending requirement.

Analysis

Under the terms of the PAI regulation, "no PAI funds shall be committed for direct payments to any attorney who for any portion of the previous two years has been a staff attorney as defined in §1600.1 of these regulations . . ." 45 CFR §1614.1(e). Staff attorney is defined in Part 1600 as "an attorney more than one half of whose professional income is derived from the proceeds of a grant from the Legal Services Corporation or its received from a recipient, subrecipients, grantee, or contractor that limits its activities to providing legal assistance to clients eligible for assistance under the Act." 45 CFR §1600.1. LSC considers its basic field programs to be "recipient[s] organized solely for the provision of legal assistance to eligible clients under [the LSC Act]." LSC Office of Legal Affairs External Opinion EX-2003-1004. Accordingly, any attorney employed by such a program who receives more than one-half of his income from the program's funds – whether they are LSC funds or non-LSC funds – is considered to be a "staff attorney." *Id.*

The key to the analysis as to whether any or all of the participants in the incubator program would be "staff attorneys" is whether they would be receiving more than one half of their professional income from the recipient. This is a determination the recipient will have to make on an individualized basis for each attorney. As we understand the incubator program as envisioned, it appears likely that some participants would not be likely to receive more their one half of respective professional incomes from the recipient, while others could be more likely to do so.

The persons most likely to qualify as staff attorneys are those participants who are already licensed attorneys as those attorneys would be on the staff of the recipient for several

¹ As we understand it, the recipient is only contemplating, for the purposes of the PAI spending requirement, payments made to incubator program participants in connection with cases referred to licensed attorneys after they are no longer serving as temporary employees of the recipient. The recipient is not seeking to count towards its PAI requirement any salary paid to incubator program participants during the time they are employed by the recipient.

months, and then receive additional income from the recipient during the remainder of the year while completing the incubator program year. In particular, there appear to be two likely scenarios under which a participating attorney could end up having received more than one half of his/her income from the recipient; (1) if the salary the attorney receives from the recipient from his/her months of temporary employment itself constitutes more than one half of the attorney's professional income for that year; or (2) if the salary the attorney from the recipient from his/her months of temporary employment does not itself constitute more than one half of the attorney's professional income, but when combined with additional payments from the recipient for referred cases during the second period of the incubator program, the total of income received by the attorney from the recipient constitutes more than one half of the attorney's professional income. For that matter, if after leaving the incubator program the attorney continued to receive more than one half of his/her professional income from the recipient through referred cases (that is, if the attorney's income from the remainder of his/her private practice did not constitute more than one half of his/her professional income), the attorney would continue to fall under the definition of "staff attorney."²

For participants who are recent law school graduates, although it is still possible that they could ultimately receive sufficient professional income from the recipient so as to qualify as "staff attorneys," it appears less likely. As with participants who came to the program already licensed, if the participant earned more than one half of his/her professional income for a year from the recipient, that person would be a "staff attorney." The difference in this situation, however, is that recent law school graduates are most likely not going to have passed the bar and been admitted to practice in the state during the period of employment with the recipient (or at least during the bulk of that period). Rather, these persons are anticipated to be hired as paralegals and rather than attorneys. To the extent that these persons are not "attorneys"³ while working for the recipient the income during their internship period, the money they receive from the program does not count toward their professional income under the definition of staff attorney in part 1600. Thus, the likelihood that such a participant is going to earn more than one half of his/her professional income as an attorney for that year from the recipient is smaller than it is for someone who comes to the incubator program already licensed.

² Conversely, if the attorney did not earn more than one half of his/her professional income from the recipient, but rather from other external sources, the attorney would not qualify as a staff attorney. However, it is important to keep in mind that the attorney would have to be receiving that income directly from other sources, and not funneled through the recipient. Thus, if the incubator program was structured that the incubator program itself was an entity that could employ the participants or another partner in the program were to pay the participants, it could be less likely that a participant would receive more than one half of her/her professional income from the recipient.

³ The term "attorney" is defined in the regulation at 45 CFR Part 1600 as "any person who provides legal assistance to eligible clients and who is authorized to practice law in the jurisdiction where assistance is rendered." 45 CFR §1600.1. Under the state court rules applicable to the recipient, although a recent law school graduate (who has not otherwise passed the state bar and been admitted to practice) can engage in some legal assistance activities, the graduate must do so under the supervision of a licensed attorney who is responsible for the graduate's work. The rules specify that the graduate cannot hold him or herself out as admitted to practice and do not confer any authorization to practice law independently. Accordingly, we do not think that the otherwise unlicensed law school graduates who would be working under the supervision of recipient staff attorneys in the incubator program qualify as "attorneys" for the purpose of the definitions of "attorney" and "staff attorney" in Part 1600 or for the purpose of Part 1614.

It is important to keep in mind, however, that once the graduate passes the bar and is admitted to practice in the state, that person would be an attorney, so any professional income earned by that person from the recipient would have to be counted. For example, if a graduate was working an internship period from September through December at the recipient, was notified in November that s/he had passed the bar, and was subsequently admitted and sworn in in early December, that participant would be employed as a paralegal from September until such time as s/he was admitted and as an attorney for the remaining time. The participant's income as an attorney (from December of that year) would count toward the overall calculation of that person's professional income as an attorney from all sources for that year, but the income earned as a paralegal would not. Further, any income that graduate-now-attorney earned from the recipient after leaving the recipient's direct employ from referred cases (either while the now-attorney was still in the incubator program or after in private practice) would be counted.

Applying the analysis set forth above, for any participant in the incubator program, if the participant earned more than one half of his/her professional attorney income for a year from the recipient, that participant would be considered a "staff attorney" and the recipient would be prohibited under §1614.1(e) from counting payments provided to such an attorney for cases referred to that attorney after the attorney had left the employment of the recipient toward the recipient's PAI requirement during the two year "cooling off" period. It is important to note that the prohibition is not on making payments to former staff attorneys *per se*, it is on counting such funds toward the recipient's PAI spending requirement.⁴ The recipient could refer cases and provide payment to a private attorney who was a former staff attorney through participation in the incubator program, but the recipient could not count those payments toward its PAI spending requirement. Conversely, for any participant in the incubator program, if the participant did not earn more than one half of his/her professional attorney income from the recipient, that participant would not be considered a "staff attorney" and the recipient would be permitted to count payments provided to such an attorney for cases referred to that attorney after the attorney had left the employment of the recipient towards the recipient's PAI spending requirement.



Victor M. Fortuno
General Counsel

⁴ This point is made clear in the preamble to the final rule in which the prohibition was adopted:

It should be noted that paragraphs (d) and (e) of §1614.1 apply only for the limited purpose of determining whether funds given to a particular lawyer should be counted towards a recipient's PAI requirement. There are many circumstances in which it would be best to give a client's case to someone who had been a staff attorney. Accordingly, paragraphs (d) and (e) do not prohibit such a practice. They simply establish that fees given a private attorney who has recently been a staff attorney cannot be credited toward the PAI requirement

OFFICE OF LEGAL AFFAIRS

ADVISORY OPINION

Advisory Opinion # AO – 2011-001

SUBJ: PAI Allocability of Costs Related to Intake and Referral of Applicants To Certain Pro Bono Volunteer Lawyer Programs
DATE: May 2, 2011

Question Presented

Whether a recipient may count towards its Private Attorney Involvement (PAI) spending requirement the value of time spent in intake, screening and referral time related to LSC-eligible applicants whom the recipient refers to pro bono volunteer lawyer programs in which the recipient does not consider the persons referred clients, does not count the cases as PAI cases for CSR purposes and does not follow up to determine the disposition of the referrals.

Brief Answer

No, the dollar value of the time spent on screening and referring of eligible applicants to direct delivery systems that do not meet the criteria set forth in 45 CFR §1614.3(d) for direct delivery systems described in 45 CFR §1614.3(a) is not allocable to a recipient's required PAI expenditures.

Background

The PAI Requirement

Under LSC's Private Attorney Involvement (PAI) regulation at 45 CFR Part 1614, recipients are required to expend an amount equal to 12.5% of the annualized basic field grant on activities designed to involve private attorneys in the delivery of legal assistance to eligible clients. 45 CFR §1614.1. This raises the question of what costs incurred by recipients may be deemed allocable to the 12.5% spending requirement. Section 1614.3 sets forth a list of the "range of activities" that may be undertaken to "meet the requirements of this part." See, 45 CFR §§1614.3(a) and (b). Although §§1614.3(a) and (b) are not written in express terms of allocability of costs, it follows that if a recipient engages in activities that are permissible under §1614.3 as part of its PAI program, the costs of those activities are allocable to its 12.5% spending requirement. Moreover, paragraph (e) of §1614.3 discusses the requirements for demonstrating compliance with Part 1614 by "utilizing financial systems and procedures and

maintaining supporting documentation to identify and account separately for costs related to the PAI effort.”¹

Direct Delivery of Legal Assistance to Eligible Clients

The first broad category of activities to which recipients may allocate PAI costs is “the direct delivery of legal assistance to eligible clients.” 45 CFR §1614.3(a). “Direct delivery” activities are, as the term implies, those intended to result in the direct provision of legal services by a private attorney to an eligible client, including “organized *pro bono* plans, reduced fee plans, judicare panels, private attorney contracts, or modified *pro bono* plans that provide for the payment of nominal fees by eligible clients and/or organized referral systems.”² *Id.* “Direct delivery” activities must also meet the requirements set forth in §1614.3(d). Section 1614.3(d) provides that “direct delivery” systems must include four components. These components are: intake and case acceptance procedures consistent with the program’s priorities; case assignments that ensure that the cases are assigned to private attorneys with the requisite skills and experience to handle them; case oversight by the recipient; and access by private attorneys to recipient resources that provide back-up on substantive and procedural issues of the law.³ *Id.*

Support Activities

In addition to the “direct delivery” activities which must be a part of each recipient’s PAI program, some other activities are also considered part of the permissible range of activities for the purpose of the regulation. These activities are themselves further divided into two categories, as set forth in §1614.3(b). One category is support provided by private attorneys to recipients and the other is support provided by recipients to private attorneys. *Id.*

Under §1614.3(b)(1), support by private attorneys to recipients in the recipients’ delivery of legal assistance to eligible clients can be in the form of direct legal assistance to eligible clients, or in the form of providing community legal education, training, technical assistance, research, advice and counsel, or co-counseling arrangements. Private attorneys may also provide

¹ Section 1614.3(c) of the regulation addresses five factors a recipient must consider in selecting which specific methods, from among the range of permissible activities set forth in §1614.3, it will include in its PAI program. If a recipient failed to consider these factors in selecting which specific activities to include in its PAI program, the costs related to those activities could potentially be found to be not allocable to its 12.5% funding requirement even if the activities otherwise appeared to comply with the rest of §1614.3. For the purposes of this Advisory Opinion there is no reason to believe the recipient was not in compliance §1614.3(c) and this issue is not considered further.

² Revolving litigation fund systems, however, are expressly excluded. *Id.* See §1614.5 for a description of revolving litigation funds.

³ For the purposes of this Advisory Opinion, such direct delivery systems shall be referred to hereafter as “1614 compliant” and direct delivery systems which do not comply with these requirements shall be referred to as “1614 non-compliant” direct delivery systems. It is important to note that the use of the term “1614 non-compliant” should not be interpreted as making any value judgment on the adequacy of the services provided by the attorneys participating in those programs, nor as suggesting that such programs are not valuable to the overall delivery of legal assistance to low income persons in the service area. Rather, it is intended to denote only that the volunteer lawyer programs to which the recipient is referring applicants fall outside the scope of direct delivery systems required by Part 1614.

in-kind support to recipients through permitting the use of the private attorneys' facilities, libraries, computer-assisted legal research systems or other resources. *Id.*

Under §1614.3(b)(2), support by recipients to private attorneys "in furtherance of activities undertaken pursuant to this section" may include person-to-person services, such as the provision of training, technical assistance, research and advice and counsel, or in-kind services, such as use of recipient facilities, libraries, computer-assisted legal research systems or other resources

The Recipient's Intake and Referral Activities

This question arises out of a situation in which the recipient participates in a system with a number of volunteer lawyer programs in its service area.⁴ The recipient serves as the centralized point of intake for these volunteer lawyer programs. The recipient screens applicants for eligibility for its own services. Some eligible applicants are referred to these volunteer lawyer programs for service. The volunteer lawyer programs to which the recipient refers cases do not necessarily have case acceptance criteria that are consistent with the program's priorities. After the referral is made, the recipient has no further involvement. The recipient does not consider these applicants as clients accepted for service by the recipient and provides no oversight over the cases, and does not track whether the applicant is ultimately provided any service through the referral. As such, the volunteer lawyer programs to which the recipient makes referrals are 1614 non-compliant direct delivery systems. The recipient desires to count the value of its staff time in screening and referring the LSC-eligible applicants towards its PAI spending requirement.⁵

Analysis

The question presented is whether the recipient's work in performing intake and screening and referral of LSC-eligible applicants to a "1614 non-compliant" direct delivery system is within the range of permissible activities contemplated by §1614.3 for meeting the PAI requirement. If it is, the value of the recipient's time in performing such work would generally be allocable to the recipient's PAI spending requirements. If not, however, the dollar value of the recipient's work on these activities would not be allocable to the recipient's PAI spending requirement.

The first possibility to consider is whether such activities are permissible under §1614.3(a). For "1614 compliant" direct delivery systems contemplated by §1614.3(a) the legal services being provided to eligible clients is being provided by private attorneys, the allocable costs for such direct delivery systems are the costs the recipient bears for the activities it undertakes in connection with such systems. As such, the value of a recipient's time spent on administrative activities, such as intake, eligibility screening and referral activities in connection

⁴ The recipient also participates in a "1614 compliant" direct delivery system, which is not at issue in this Opinion.

⁵ Applicants who are not eligible for the recipient's services are referred to other potentially suitable providers. Some applicants who are eligible for service are served directly by the recipient. The recipient does not seek to count any time spent in screening or referring these applicants towards its PAI spending requirement.

with “1614 compliant” direct delivery systems, must necessarily be considered §1614.3(a) activities. However, as noted above, the direct delivery systems described in §1614.3(a) are only those which comply with the requirements of §1614.3(d). The direct delivery systems at issue here are “1614 non-compliant” direct delivery systems. Therefore, the intake, screening and referral activities at issue here cannot be considered §1614.3(a) activities because these activities are undertaken in connection with a “1614 non-compliant” direct delivery system.

The next possibility is whether the activities may be considered permissible within the parameters of §1614.3(b). The structure of the regulation sets up a clear distinction between direct delivery activities and other, non-direct delivery activities. The activities listed in subsections (b)(1) and (2) do not include any sort of direct “client” services. Rather, they are generally services provided by the recipient to the private attorney or the private attorney to the recipient. The provision of community legal education is as close to a “client” service as appears to be contemplated. Even that is not the delivery of legal assistance to clients in individual cases in the sense clearly contemplated by §1614.3(a). Rather, community legal education is the provision of legal information to persons who are not, and might never become, “clients.” Moreover, the use of the word “support” in both of the subparagraphs and the types of activities which delineated by the regulation suggests that the “not limited to” language in the introductory clause of the section was intended to allow for activities not necessarily already listed but which comprise other than direct delivery activities. In addition, because “1614 compliant” direct delivery systems are the only required part of each recipient’s PAI activities and, as such, are expected to be at the core of each recipient’s PAI program, the best reading of the regulation may be to expect that all direct delivery activities meet the standards in §1614.3(d) and that a recipient’s activities undertaken in connection with “1614 non-compliant” direct delivery systems are not within the range of permissible activities contemplated by the regulation, such that the costs associated with these activities are not allocable to the spending requirement.

On the other hand, it could also be argued that the language of §1614.3(b) does not expressly exclude activities related to “1614 non-compliant” direct delivery activities. The word “support” is used in subsections (b)(1) and (b)(2), but not in the introductory language of (b) itself. Rather, that language states: “Activities undertaken by recipients to meet the requirements of this part, may also include, but are not limited to:[...]”. This might suggest that “activities” under (b) generally is broader than only “support” activities of the types listed in the subsections. However, one basic principle of regulatory construction is that specific terms override general ones. With this in mind, the repeated use of the word “support” in each subsection, and the fact that each example contained in the regulation used is an activity that does not provide any direct client legal services (advice or representation) suggest that the better reading of the introductory clause of §1614.3(b) is that it is not intended to allow for activities beyond a range of non-direct delivery support activities contemplated by the more specific subsections.

On the whole, although there may be alternative permissible readings of the regulation, the better reading appears to be that a recipient’s work in performing intake and screening and referral of LSC-eligible applicants to a “1614 non-compliant” direct delivery system is not within the range of permissible activities contemplated by §1614.3(b). To the extent that there remains an open legal question, the OLA determination rests on whether there is an LSC policy on the issue. In this instance, LSC has, *as a matter of policy*, determined that such activities are

not appropriately allocated toward a recipient's PAI spending requirements because LSC cannot be assured that such activities appropriately effectuate the purpose of the regulation to ensure that recipients involve private attorneys in the delivery of legal assistance to eligible clients. As noted herein, the recipient admits that it has no knowledge about whether anyone referred to the volunteer lawyer systems is eventually served and what the outcome of such service might be. Under such circumstances, without the recipient involvement and oversight required by "1614 compliant" direct delivery systems, LSC cannot be assured that such systems "generate the most possible legal services for eligible clients from available, but limited, resources." 45 CFR §1614.1(c). In light of this policy determination, OLA finds that the proposed activities are not allocable to the recipient's PAI spending requirement.



Mattie Cohan
Senior Assistant General Counsel





Victor M. Fortuno
Vice President & General Counsel

Summary of Expressions of Interest and Comments Received

OFFICE OF LEGAL AFFAIRS

To: LSC Operations and Regulations Committee
Panelists for the July 2013 PAI Rulemaking Workshop

From: Ronald S. Flagg, General Counsel 
Mark Freedman, Senior Assistant General Counsel 

Date: July 8, 2013

Re: Panelists and Comments for the July 2013 PAI Rulemaking Workshop

LSC has selected six panelists for the July PAI rulemaking workshop. Each panelist submitted an application to participate on the panel and comments on some or all of the topics for discussion. LSC also received panelist applications or comments from six other people, five of whom also submitted comments, and some of whom may be invited to participate in the second workshop to be held on September 17, 2013. This memo summarizes all of the materials submitted to LSC. The background information about the panelists and their comments are reprinted in the July board books and are posted on the PAI rulemaking workshop webpage on www.lsc.gov at <http://bit.ly/PAIrulemakingdetails>. Please contact Mark Freedman, mfreedman@lsc.gov, 202-295-1623, if you would like to have the set of materials sent to you via email or as a printed binder.

The topics and related items for discussion are set forth in the Federal Register notice at 78 Fed. Reg. 27339 (May 10, 2013), which is included in the board books. For reference, the three topics of discussion are as follows:

- Topic 1: LSC Pro Bono Task Force Recommendation 2(a)—Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives.
- Topic 2: LSC Pro Bono Task Force Recommendation 2(b)—Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.
- Topic 3: LSC Pro Bono Task Force Recommendation 2(c)—LSC should reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.

Panelist	Organization	Topic 1	Topic 2	Topic 3	Other
Silvia Argueta	National Legal Aid and Defender Association (NLADA)	X	X	X	X
Steve Gottlieb	Atlanta Legal Aid Society	X	X	X	
Judge Mary Katherine Huffman	Greater Dayton Volunteer Lawyers Project	X	X		
Joan Kleinberg	Northwest Justice Project (Wash.)		X	X	
Kenneth Penokie	Legal Services of Northern Michigan	X		X	
Lisa Wood	ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID)	X	X	X	X

Commenter	Organization	Topic 1	Topic 2	Topic 3	Other
Janice Chiaretto	Statewide Legal Services of Connecticut				X
Lynda Krupp	Legal Aid and Defender Association (Mich.)	X	X	X	X
Linda Warren Seely	Memphis Area Legal Services	X			
William Tanner	Legal Aid Society of Orange County (Calif.)	X			
David Udell	National Center for Access to Justice	X			

COMMENTS FROM PANELISTS

Panelist: Silvia Argueta, NLADA

Silvia Argueta is the Chair of the Regulations and Policies Committee of the National Legal Aid and Defender Association (NLADA) and Executive Director of the Legal Aid Foundation of Los Angeles. Ms. Argueta intends to address all of the topics for discussion.

NLADA submitted an outline of key points and comments with copies of a 2011 NLADA memo to LSC requesting the withdrawal of OLA Opinion AO-2011-001 and a 2008 CLASP memo requesting reconsideration of OLA Opinion EX-2008-1001.

NLADA fully supports all three recommendations. NLADA encourages LSC to expand the examples of PAI activities in the regulation while providing flexibility to include creative and innovative approaches to PAI.

AO-2011-001 concluded that, under 45 C.F.R. § 1614 and LSC policy, intake, screening, and referral of applicants to pro bono programs are not allocable to an LSC grantee's PAI spending requirements when the grantee does not track these applicants as cases or determine whether any legal assistance was actually provided by a private attorney. The NLADA 2011 memo criticizes that opinion and policy determination as inconsistent with the requirements of Part 1614 and the goals stated in LSC Program Letter 07-02, which encourages "effective, strategic, and creative engagement of private pro bono attorneys" NLADA argues that

intake, screening, and referral should be sufficient for the PAI requirements without follow-up or tracking as a grantee case.

EX-2008-1001 concluded that an LSC grantee could not count as a PAI activity its support for private attorney clinics providing legal assistance that were operated with other entities because the clinics did not screen applicants for eligibility and the legal assistance provided was not tracked as case services in the grantee's case management system. LSC applies these requirements to PAI activities that constitute direct delivery of legal assistance under 45 C.F.R. § 1614.3(a). The CLASP 2008 memo argues that these activities should qualify as permissible support activities to private attorneys under 45 C.F.R. § 1614.3(b) rather than as direct delivery activities. Furthermore, the CLASP memo argues that requiring the grantee to track this legal advice as grantee cases would unnecessarily raise conflicts issues that would limit access to legal assistance for some eligible clients.

Panelist: Steve Gottlieb, Atlanta Legal Aid Society

Steve Gottlieb is the executive director of the Atlanta Legal Aid Society, an LSC grantee. Mr. Gottlieb intends to address all of the items for discussion. Atlanta Legal Aid encourages a less restrictive and more long-term view of private attorney involvement than the present regulation permits.

- Topic 1: Atlanta Legal Aid supports inclusion of law students, law graduates, and deferred associates in the PAI rule.
- Topic 2: Atlanta Legal Aid encourages methods of involving private attorneys in more limited capacities than full client representation. Examples are screening, advice, and referrals.
- Topic 3: Atlanta Legal Aid notes that private attorney interest may not align with grantee priorities, and some private attorneys may be willing to only accept limited and non-urgent cases. Furthermore, he notes that clinics and hotlines are methods of involving private attorneys in which eligibility screening may interfere with providing immediate services.

Panelist: Judge Mary Katherine Huffman, Greater Dayton Volunteer Lawyers Project

Judge Huffman is a General Division Judge in the Court of Common Pleas in Dayton, Ohio. Judge Huffman is the immediate past president of the Greater Dayton Volunteer Lawyers Project and continues to serve on its Board of Trustees. Judge Huffman intends to address Topics 1 and 2, but not Topic 3.

Judge Huffman emphasizes concerns about limitations in the current private attorney referral system. Judge Huffman cautions that LSC should consider a number of issues before considering expansion of the scope of permissible PAI activities. In particular, Judge Huffman focuses on ensuring that LSC grantees have viable pro bono programs that make full use of interested and available private attorney resources.

Panelist: Joan Kleinberg, Northwest Justice Project (NJP)

Joan Kleinberg is the Director of Strategic Initiative and Private Bar Involvement at the Northwest Justice Project, an LSC grantee serving the state of Washington. Ms. Kleinberg intends to address Topics 2 and 3, but not Topic 1.

- Topic 1: Although NJP will not address Topic 1, NJP supports the recommendation.
- Topic 2: NJP supports the recommendation and will address NJP's intake and referral system, the limitations on counting this work as PAI under Part 1614, and alternate methods of accountability for pro bono referrals.
- Topic 3: NJP supports this recommendation and will address NJP's use of volunteers in brief service clinics, screening for LSC eligibility, non-direct support, limitations counting this work as PAI under Part 1614, and methods of accountability.

Panelist: Kenneth Penokie, Legal Services of Northern Michigan

Mr. Penokie is the Executive Director of Legal Services of Northern Michigan (LSNM), an LSC grantee. Mr. Penokie will address Topics 1 and 3, but not Topic 2.

- Topic 1: LNSM identifies obstacles to the recruitment of pro bono legal services that are not addressed in the Pro Bono Task Force Report, especially those faced by programs in sparsely populated rural areas with few attorneys.
- Topic 3: LNSM discusses how the current rules, especially regarding data collection, impair the success of novel pro bono programs by emphasizing traditional full screening and follow-up that might not be appropriate to limited pro bono services. Tailoring accountability to the level of service provided may increase the ability to leverage PAI funds.

Panelist: Lisa Wood, ABA SCLAID

Lisa Wood is the Chair of the ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID) and a partner and chair of the litigation department at Foley Hoag LLP in Boston. Ms. Wood will address all three topics. Generally, the ABA recommends increasing flexibility in the regulations to foster creative and collaborative approaches. The ABA cautions against over-specificity that could inhibit novel initiatives. The ABA also submitted its July 14, 2011, memorandum to LSC requesting withdrawal of OLA opinion AO-2011-001.

- Topic 1: The ABA supports this recommendation and notes that law students, law graduates, deferred associates, and others present valuable opportunities to leverage volunteers while fostering commitments to pro bono services. "Incubator" initiatives involving contract work for newly admitted attorneys are valuable pro bono opportunities.
- Topic 2: The ABA supports eliminating requirements that, in order for intake, screening and referral activities to be allocable to an LSC grantee's spending requirements, a grantee must conduct follow-up of private attorney referrals and consider those referrals

as grantee cases. The ABA states that the policy set forth in AO-2011-001 is overbroad, discourages pro bono involvement, and was not adopted through a public process.

- Topic 3: The ABA supports examining this issue to consider how to balance the need for screening for statutory eligibility with effective operation of brief service clinics. The ABA expects to develop a position on this topic based on further review and the views of others at the PAI workshop in July.

COMMENTS FROM OTHERS

Commenter: Janice Chiaretto, Statewide Legal Services of Connecticut

Janice Chiaretto is the Executive Director at Statewide Legal Services of Connecticut (SLSC), an LSC grantee. Ms. Chiaretto submitted comments that addressed the PAI requirements but did not specifically relate her comments to the three topics. SLSC recommended:

- no increase in the 12.5% requirement,
- elimination of the 12.5% requirement to dedicate scarce funds for operating expenses,
- development of competitive grants, similar to TIGs, to foster PAI ventures, and
- seeking additional funding for PAI grants, similar to TIGs.

Commenter: Lynda Krupp, Legal Aid and Defender Association (Mich.)

Lynda Krupp is the Managing Attorney of the Private Attorney Involvement Unit at the Legal Aid and Defender Association (LADA) in Detroit, Michigan. LADA's comments:

- support and encourage asking Congress to separately fund a Pro Bono Innovation/Incubation fund,
- emphasize the need for adequate staff and resources for pro bono programs,
- welcome the recognition of a need for substantial funding for infrastructure for pro bono programs,
- support including law students and law graduates as pro bono work (Topic 1),
- support counting matters towards PAI requirements, and
- support the following, if new PAI funding is available:
 - using PAI resources to increase screening, advice, and referral programs (Topic 2), and
 - using PAI resources for supervision of pro bono volunteers in new incubator/innovation projects.

Commenter: Linda Warren Seely, Memphis Area Legal Services

Linda Warren Seely is the Director of Pro Bono Projects at Memphis Area Legal Services, an LSC grantee, and the President of the Memphis Bar Association. She submitted comments on behalf of the Memphis Bar Association Access to Justice Committee. These comments were limited to Topic 1 and discuss the following:

- the success of the Memphis Saturday Legal Clinic,
- the interest of volunteers and externs from law schools, paralegal schools, and undergraduate schools to volunteer with Memphis Area Legal Services,
- the availability of paralegals to handle social security disability hearings pro bono,
- permitting counting for PAI purposes training, supervision, and other work related to non-attorney volunteers in pro bono activities,
- using pilot programs to look for unintended consequences, fraud, or waste, and
- concerns about LSC requirements discouraging private attorneys from volunteering.

Commenter: William Tanner, Legal Aid Society of Orange County (Calif.)

William Tanner is a Directing Attorney at the Legal Aid Society of Orange County (LASOC) in California. LASOC's comments involve Topic 1, especially incubator programs. LASOC discusses the importance of involving law students, recent graduates, and newly admitted attorneys in public interest work, including paid work in pro bono and "low bono" incubator programs providing service to low- and moderate-income communities. LASOC also discusses how the current definition of private attorney in Part 1614 does not account for these types of volunteer activities.

LASOC also noted the following three concerns regarding fraud, waste, or abuse:

- avoiding excessive emphasis on law students instead of admitted attorneys by setting proportional limits on the use of law students or the amount of PAI funds used for student or deferred associate efforts,
- setting clear limits on counting the work of former legal aid program staff attorneys in PAI activities (within two years of departure from the LSC-funded legal aid program), and
- setting clear rules for involving attorneys in paid PAI programs when they have little or no other professional income and might otherwise not qualify as "private attorneys" under the PAI rule if they are paid by the LSC grantee.

Commenter: David Udell, National Center for Access to Justice

David Udell is the Executive Director of the National Center for Access to Justice and Visiting Professor from Practice at Cardozo Law School. Mr. Udell submitted comments on Topic 1 supporting the recommendation. Mr. Udell's comments emphasize the importance of including law students in pro bono programs that qualify for PAI credit.

Panelist Information & Comments

Panelist Information and Comments

- Silvia Argueta, Chair, National Legal Aid and Defender Association's Regulations and Policies Committee (NLADA)
- Steve Gottlieb, Executive Director, Atlanta Legal Aid Society
- Judge Mary Katherine Huffman, Greater Dayton Volunteer Lawyers Project
- Joan Kleinberg, Director of Strategic Initiatives and Private Bar Involvement, Northwest Justice Project
- Kenneth Penokie, Executive Director, Legal Services of Northern Michigan
- Lisa Wood, Chair, American Bar Association's Standing Committee of Legal Aid and Indigent Defendants (SCLAID)



National Legal Aid & Defender Association

June 25, 2013

EQUAL JUSTICE.
OF THE PEOPLE.
FOR THE PEOPLE.

Sent by email to PAIRULEMAKING@lsc.gov and by regular U.S. mail

Mark Freedman
Senior Assistant General Counsel
Legal Services Corporation
3333 K St., N.W.
Washington, DC 20007

Re: Expression of Interest in Participating in July 23, 2013 PAI Rulemaking Workshop; Comments

Dear Mr. Freedman:

The National Legal Aid and Defender Association respectfully requests the opportunity for Silvia Argueta to participate as a panelist on behalf of NLADA in the July 23, 2013 PAI Regulatory Workshop in Denver. In addition, Don Saunders and Chuck Greenfield from NLADA hereby register for in-person public participation at the same workshop.

The following is a brief outline of NLADA's key points and comments, followed by a statement of summary of qualifications and a completed checklist of the topics and items that NLADA will address at the workshop.

Brief Outline of NLADA’s Key Points and Comments Related to the Three Topics Identified in the Federal Register Notice

Topic 1: LSC Pro Bono Task Force Recommendation 2(a)—Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in “incubator” initiatives.

NLADA is fully supportive of this recommendation. Legal aid programs often spend considerable time training and supervising law students, law graduates, paralegals, attorneys not admitted in the program’s state, in-house counsel and others. Programs have found that their investment in training and supervising these volunteers has generated increased involvement in pro bono activities during later periods of time.

Two opinions of LSC’s Office of Legal Affairs, OLA External Opinion # EX-2005-1001 (staff attorney time spent working with and supervising volunteer law students volunteering may not be counted toward PAI requirement) and OLA Advisory Opinion # AO –2009-1007 (payments provided to an attorney as part of an “incubator program” cannot be considered towards PAI requirement if the attorney has been employed as an attorney with the program for any portion of the last two years) unduly restrict the type of activities in which an LSC-funded program can engage that can be considered towards the 12.5% PAI requirement. We urge LSC to make it clear that 45 CFR Part 1614 does not have these limitations and barriers to effective, efficient and innovative pro bono efforts.

LSC should make clear what activities can be included toward the PAI requirement, but also allow enough flexibility for programs to create innovative PAI approaches. The use of “including, but not limited to” language where appropriate is encouraged.

Topic 2: LSC Pro Bono Task Force Recommendation 2(b)—Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.

NLADA is fully supportive of this recommendation. Screening, advising and referring LSC-eligible applicants in support of the effective use of pro bono resources should be an allowable activity counted towards the PAI requirement. Through intake, referrals and other supportive efforts, LSC-funded programs provide invaluable support to local pro bono programs and develop close working relationships and collaborations with the organized bar and other groups. Their relationships with the private attorneys in their service areas is also greatly enhanced.

LSC Office of Legal Affairs Advisory Opinion AO-2011-001 (the dollar amount of time spent on advice and referral of LSC-eligible applicants cannot be counted toward the PAI obligation) is inconsistent with the underlying requirements of Part 1614 and fails to accommodate the flexibility provided grantees under Part 1614. (See attached August 4, 2011 letter from NLADA to Victor Fortuno, Vice President and General Counsel). LSC should ensure that the revised regulation rejects the approach of this opinion, much of which appears to be based on an unclear LSC policy determination.

Topic 3: LSC Pro Bono Task Force Recommendation 2(c)—LSC should reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.

NLADA is fully supportive of this recommendation. Mandating that PAI activity must be connected to LSC case requirements in order for the activity to be counted toward the PAI requirement constricts the ability of programs to operate effective, efficient and innovative pro bono projects.

LSC Office of Legal Affairs External Opinion EX-2008-1001 (persons served by pro bono clinics must be screened for eligibility in order for related expenses to be counted towards the PAI requirement) places significant limitations on an LSC-funded program's ability to develop creative and successful pro bono models. By requiring the program to consider clinic clients to be program clients, LSC would be acting to limit the legal assistance available to low-income individuals in the areas served by the clinics. This is counter-productive to, and inconsistent with, the goals of the PAI rule. (See attached May 14,

2008 memo from Linda Perle and Alan Houseman of CLASP to Karen Sarjeant and Victor Fortuno). LSC should ensure that the revised regulation rejects the approach of this opinion.

Protection against fraud, waste or abuse related to implementing the above recommendations.

Protection against fraud, waste or abuse with respect to each of these recommendations can and should be effectively addressed through the Independent Auditor procedures and compliance reviews otherwise utilized with respect to compliance activities. NLADA urges LSC to not create burdensome and unnecessary requirements in the name of protection against fraud, waste or abuse. It is particularly important to not discourage pro bono/private attorney involvement in effective programs and services that often occurs when burdensome documentation and detailed compliance requirements are imposed.


Summary of Qualifications of Silvia Argueta

Silvia Argueta is the Chair of the Regulations and Policies Committee of the NLADA. In this position, she works with committee members who are executive directors and senior managers in legal services organizations. The committee analyzes and makes recommendations to regulatory bodies regarding proposed new rules, regulations and policies as well as any amendments to those already in existence. Ms. Argueta is the executive director of the Legal Aid Foundation of Los Angeles since 2009. She has been an attorney for 23 years.

NLADA will be providing additional written comments to LSC on revising 45 CFR Part 1614 prior to October 17, 2013.

Please let me know if you have any questions. Thank you.

Sincerely,



Chuck Greenfield
Chief Counsel for Civil Programs



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MEMORANDUM

TO: Victor Fortuno, Vice President and General Counsel

FROM: Deierdre Weir, Chair, Civil Policy Group, NLADA
Don Saunders, Vice President, Civil Division, NLADA
Linda E. Perle, Director of Legal Services, CLASP

DATE: August 4, 2011

RE: Request to Withdraw OLA Advisory Opinion #AO 2011-001

This memorandum is written in our capacity as representatives of national legal services grantees and in particular those numerous grantees that are negatively affected by the conclusions reached in the Office of Legal Affairs "Advisory Opinion" #AO 2011-001. We write to add our support to the July 14, 2011 request of the American Bar Association (ABA) Standing Committees on Legal Aid and Indigent Defense (SCLAID) and Pro Bono and Public Service (the Pro Bono committee) that the opinion be withdrawn.¹ In doing so, we recognize that asking for the withdrawal of an advisory opinion is an unusual and rare request. However, given the depth of concern expressed by the ABA committees and the strength of their analysis and the adverse impact on grantees, it is critical that this request be given serious consideration.

Many LSC grantees have worked over the years in close collaboration with independent local bar associations and other service organizations, including interfaith groups, within their services areas to develop creative, efficient, and effective ways to involve private attorneys in the delivery of legal services to low-income clients. For example, in rural areas with few private attorneys, grantees have worked with these groups to develop creative models (*e.g.*, limited scope representation, self-help "plus" programs, same-day courthouse based advice clinics, advice clinics sponsored by faith-based entities, etc.), to encourage private attorneys to participate in the delivery of legal services to low income persons. While LSC grantees may mentor and support these programs, they do not uniformly operate or manage them. Often they are operated and managed by independent bar sponsored program bono programs.

One model that has proven effective in both rural and urban areas is to have LSC grantees do intake and referral of clients (including screening for eligibility and type of case) to bar

¹ To the extent that OLA External Opinion #EX-208-1000 takes the position that "cases referred to a recipient's PAI program remain cases of the recipient and the clients in those cases remain clients of the recipient," we also reiterate CLASP's 2008 objection to that opinion and seek once again to have it withdrawn as well.

sponsored pro bono programs, which then take over the direct delivery of legal assistance and representation. In these situations, the cases are not considered to be grantee cases for CSR purposes, and the grantee does not do continuing oversight of the cases.² Management and coordination of the pro bono programs and the cases that are referred by the LSC grantees remain the responsibility of those independent pro bono programs and the bar associations that sponsor them. Many grantees, particularly statewide grantees that are administered centrally, have found that private attorneys are far more willing to participate in pro bono programs operated and managed by their local bar associations (with which they relate professionally and share locally based affinities) than if the program is operated from a geographically distant LSC grantee location.

Through intake and referrals and other efforts, LSC grantees provide invaluable support to these local pro bono programs and develop close working relationships and collaborations with the organized bar and other groups as well as with the private attorneys in their service areas. This represents an innovative and creative approach to private bar involvement that relies on local bar investment in the pro bono commitment to our client service goals. In addition, these intake and referral efforts involve significant efficiencies by greatly simplifying the intake process for eligible clients who cannot be served directly by the grantee. They save time and effort for the pro bono programs, the private attorneys, as well as the clients who then only have to go through one intake process and eligibility screening before being referred to an attorney.

We believe that Advisory Opinion #AO 2011-001 (and EX 208-1001) fails to accommodate the flexibility provided grantees under Part 1614. We further believe that lack of flexibility will impair grantee private bar involvement efforts, particularly where support for pro bono participation is locally driven or hostile to the idea of having pro bono work managed or overseen by LSC grantees. This is especially true in those jurisdictions where LSC funding is not a primary source of financial support for the local private bar pro bono program.

We also believe that this opinion, which seems to be premised on a deliberately determined (but not previously published) LSC “policy”, is inconsistent with the underlying requirements of Part 1614 (see §1614.3(c)) of the LSC regulations, and undermines the goals of the December 20, 2007, LSC Program Letter 07-2. Program Letter 07-2 urges programs to use “effective, strategic, and creative engagement of private pro bono attorneys” and further urges grantees to “...evaluate how those resources that do exist could be used effectively,” notwithstanding the varied needs and resources of service areas. Specifically, LSC writes: “This Program letter encourages grantees to undertake renewed, thoughtful and strategic efforts to leverage private attorney resources in order to address more of the civil legal needs of low income persons and communities... and [urges that] LSC programs be encouraged to create a range of options that allow private attorneys to volunteer efficiently and effectively, and that produce successful outcomes for clients.”

² This is similar to when grantee programs provide support to clinics run by local bar associations and religious groups, but do not manage or run the clinic and the clients are the clients of the clinic and the private attorneys who participate in the clinics.

In light of the diminishing resources available nationwide to meet the increasingly varied legal needs of low-income persons, it is critical that Part 1614 be interpreted in a way that gives LSC grantees the greatest flexibility possible to expand the capacity and involvement of private attorneys in the delivery of legal services to low-income communities. By differentiating and mutually excluding the direct delivery of legal services from support for private attorney involved services, Advisory Opinion #AO-2011-001 frustrates and inhibits the capacity building goals underlying Part 1614. LSC grantees should be permitted to meet their required private attorney involvement obligations in a wide variety of ways that they and the organized bar and private attorneys in their service areas have determined will be most effective.

For all of the reasons stated, and for the reasons presented by the ABA SCLAIID and Pro Bono Committee, we join them in asking that Advisory Opinion #AO-2011-001 be withdrawn.

cc: James Sandman
John Levi

Memo

To: Karen Sarjeant
Victor Fortuno

From: Linda Perle and Alan Houseman

Date: 5/14/2008

Re: OSLSA Finding on PAI

We are writing this memo on behalf of Ohio State Legal Services Association (OSLSA). OSLSA is questioning the conclusions reached by the LSC Office of Compliance and Enforcement (OCE) and the Office of Legal Affairs (OLA) with regard to whether OSLSA is permitted to count certain costs associated with its pro bono clinics toward its PAI allocation, and we urge you to reconsider these conclusions.

Background

In order to set the context for this memo, it should be noted that OSLSA operates in a rural area of Ohio where there are few private attorneys and where it has been difficult to establish successful PAI programs in the past. In recent years, in coordination with local bar associations, judges, religious organizations, and other local entities such as local departments of job and family services, OSLSA has been able to help organize a number of pro bono clinics (including many "interfaith clinics") where private attorneys provide limited services to residents of these rural areas on a pro bono basis.

OSLSA's participation in these clinic activities is not intended to be viewed as "the direct delivery of legal assistance to eligible clients..." under 45 CFR 1614.3(a), which is only one aspect of PAI activity.¹ Rather, OSLSA's participation is limited to the kind of support activities intended to be provided under 45 CFR 1614.3(b)(2) which states that "[a]ctivities undertaken by recipients to meet the requirements of this part may also include, but are not limited to ...[s]upport provided by

¹ OLA External Opinion #EX-2008-1001 presumes that OSLSA's support activities are the direct delivery of legal assistance to eligible clients under §1614.3(a), ignoring the fact that Part 1614 clearly recognizes that support activities under §1614.3(b)(2) are a separate category of PAI activities that may also be allocated to fulfill a program's PAI requirement.

the recipient in furtherance of activities undertaken pursuant to this Section including the provision of training, technical assistance, research, advice and counsel, or the use of recipient facilities, libraries, computer assisted legal research systems or other resources....”

OSLSA provides a variety of support services to the clinics such as training the private attorneys, providing reference materials and pro se packets, answering questions from private attorneys about poverty law, providing laptops with frequently utilized court forms, and providing access to legal research as needed. These support services are generally not related to legal assistance to specific eligible clients. They are, however, clearly the kind of support services that are anticipated to be provided under 45 CFR 1614.3(b)(2). OSLSA’s support for the clinics is very limited in scope and remains “behind the scenes” so that the sponsorship and “ownership” of the clinics rests firmly in the hands of the local bar and the interfaith community that recruits the lawyers who agree to participate as members of the local legal communities or as congregants of the local churches that sponsor the interfaith clinics.

These pro bono clinics meet the mandate of 45 C.F.R. 1614.2 that PAI funds be “expended in economic and efficient manner.” They also represent precisely the kind of effective, strategic, and innovative effort to engage the private bar in the delivery of legal services to members of the low-income community that President Barnett encouraged LSC recipients to undertake in her December 20, 2007 Program Letter (07-2). That letter specifically encouraged programs “to undertake renewed, thoughtful and strategic efforts to leverage private attorney resources in order to address more of the civil legal needs of low-income persons and communities.” These pro bono clinics have succeeded in engaging private attorneys to provide legal assistance in an area of the state where, in the past, that has been very difficult to do using conventional PAI techniques. Even when OSLSA has tried to contract directly with private attorneys to take cases at a reduced rate, few responded and those that did only agreed to handle domestic relations cases. In contrast, the clinics have resulted in numerous private attorneys providing advice and brief service in a wide range of legal areas.

Because OSLSA’s role has been limited to the kind of support anticipated in §1614.3(b)(2) of the LSC regulations, the local bars and religious entities that sponsor the clinics have had much more success in recruiting their members to participate than would be true if OSLSA had tried to do that directly and if OSLSA ran the clinics. In part because its participation in the clinics is so limited, and in part because of the issues discussed below, OSLSA has not claimed the clinic cases as PAI cases for CSR purposes and seeks only to continue to have the time spent in its support efforts count toward its 12.5% PAI allocation.

OLA Opinion

OCE has ordered OSLSA to stop allocating the staff time that the program devotes to supporting the pro bono clinics to PAI unless the clinics do eligibility screening of the clients who are assisted by the private attorneys through the clinics and the program “counts” the cases handled by the private attorneys as OSLSA cases. OSLSA objected to the imposition of these requirements and sought an opinion from OLA on whether they were appropriate. OLA recently

responded to OSLSA's inquiry with an External Opinion (EX-2008-1001) that concluded that "in order for OSLSA to allocate toward its Part 1614 requirement the resources it provides to the clinics, the persons served by the clinics must be screened for eligibility, determined to be eligible and considered clients of OSLSA."

The OLA opinion focused its analysis on the requirements of 45 CFR §1614.3(a) which says that "[a]ctivities undertaken by the recipient must include the direct delivery of legal assistance to eligible clients...." The opinion does not even mention §1614.3(b)(2) which is the section on which OSLSA relies. That section does not specifically mention eligible clients but does describe the kinds of support activities that OSLA provides to the clinics. If §1612.3(b)(2) is not designed to encompass these kinds of support activities, it is unclear why the provision is in the rule at all and what kinds of activities it was meant to include.

Requiring Clinic Participants to Be Treated as OSLSA Clients

Even assuming the clinics were willing and able to screen for financial and alien eligibility and priorities,² OCE and OLA have also taken the position that OSLSA cannot count its support for the clinics as part of its PAI allocation unless the clients whose cases are handled by private attorneys as part of the pro bono clinics are considered to be OSLSA's clients, claiming that it "has been the longstanding interpretation and practice of LSC that cases referred to private attorneys pursuant to a recipient's PAI program remain cases of the recipient and the clients in those cases remain clients of the recipient." The opinion does not cite any regulatory provisions to support this proposition. In fact, the only support given by either OLA or OCE is a footnote in the OLA opinion that references the preamble to the 2005 revision of Part 1611. However, this preamble discussion deals only with the question of whether retainer agreements are required in PAI cases where clients are referred by LSC recipients to private attorneys. It is not relevant to the question at issue and does not address the situation of clinic clients whose only relationship is with the private pro bono attorneys who serve them.

These individuals were never clients of OSLSA, and for those who may have originally sought help from OSLSA, the program has no continuing relationship with them after referral to the clinic. For those who sought assistance directly from the clinics or were referred there by the courts or other entities, OSLSA has had no direct contact with them at all. OSLSA's role is limited to helping the bar associations and religious organizations that sponsor the clinics to organize them, to providing technical support, training and materials, and to answering questions from the private attorneys regarding poverty law issues that may arise during the clinics. This support is generally not related to the specific clients who are helped by the private attorneys who volunteer their time to the clinics.

² While OSLSA has decided not to contest the issue of screening for eligibility at this time, I note that numerous other programs have contacted CLASP in response to the OLA opinion to indicate that they also provide support to a variety of pro bono clinics that do not screen those who seek help from the clinics for eligibility and do not count the clinic clients as their own. They have indicated that this opinion will have a major impact on their ability to fulfill their PAI obligations and to continue their support for these clinics.

OSLSA considers the issue of whether clinic clients are OSLSA clients to be crucial to the continued success of the pro bono clinic effort, primarily because of conflicts issues that arise whenever an individual enters into an attorney-client relationship with OSLSA. As was noted above, the areas served by these clinics are very rural, with a limited number of private attorneys who practice there, and no legal services providers other than OSLSA. In some instances, there are so few private attorneys practicing in the local areas served by the clinics that the attorneys who volunteer as part of the clinics constitute the great majority of the private attorneys who practice there. If the clinic clients are considered to be OSLSA clients, conflicts of interest would be created that would severely limit the availability of legal assistance to the low-income community in the areas served by the clinics.

Although the clinic attorneys provide assistance on a wide variety of subjects, the biggest demand for legal assistance in the areas served by the clinics is for help with domestic problems. Most often both parties in a domestic dispute are poor and unable to afford legal counsel. Every time OSLSA assists one poor parent in a domestic case, a potential conflict is created that bars the program from advising or representing the other poor parent on a range of legal problems, including, but not limited to that particular domestic issue.

As the clinics presently work, each side in a domestic case can get some free legal assistance from either OSLSA or the local clinic. If LSC were to require the clinics to be structured so that clinic participants had to be considered to be OSLSA clients, there would be only one source of free legal assistance, because the conflict rules would prevent OSLSA from providing legal assistance to an individual where the opposing party has been helped by the clinic and vice versa.

Perhaps a couple of examples would be instructive. If all of the clinic participants had to be considered OSLSA clients, OSLSA would be precluded from later representing any person with interests adverse to a clinic client. Thus, if a man goes to the clinic and gets advice from a private attorney about a divorce, custody, visitation, or support issue and his wife or girlfriend subsequently seeks assistance from OSLSA alleging domestic violence, OSLSA would be prevented from helping her if her husband or boyfriend were considered an OSLSA client because he had received assistance from the clinic. Similarly, if one party to a dispute over the sale of a used vehicle went to a clinic for advice on his rights regarding the transaction and the other party tried to get help from OSLSA, he or she would be turned away because there was a conflict of interest.

On the other side of the issue is the situation where OSLSA cannot accept a case in the first instance because of an existing conflict of interest. In that situation a referral to the clinic is usually the only alternative that the program or the local community can offer to that person. Thus, if OSLSA is representing a woman in a custody case and her ex-husband comes to the program seeking advice as to what his rights are in the custody matter, referral to the clinic is all that OSLSA or the local judiciary can now offer. If that avenue is barred because it would be

considered to be a conflict of interest when all clinic clients are considered OLSLA clients, then in most areas served by the clinics there are no other alternative private attorneys or other providers of legal assistance to whom he can be referred.

Section 1614.3(c) makes it clear that “[t]he specific methods to be undertaken by a recipient to involve private attorneys in the provision of legal assistance to eligible clients will be determined by the recipient’s taking into account the following factors:… (3) The actual or potential conflicts of interest between specific participating attorneys and individual eligible clients…”

Conclusion

By requiring OLSLA to consider clinic clients to be program clients, LSC would be acting to limit the legal assistance available to low-income individuals in the areas served by the clinics. This is counter-productive to, and inconsistent with, the goals of the PAI rule as well as Program Letter 07-02 which was intended to enhance private attorney involvement and to increase the number of low-income people helped by the private bar. It was certainly not intended to simply increase the number of OLSLA clients, and LSC has provided no compelling reason why these individuals should be required to be treated as program clients.

Over the years since the PAI rule has been in effect, OLSLA and many other rural civil legal aid programs have struggled hard to develop effective PAI programs, often without much success. Once OLSLA realized that the key to a successful PAI program in its service area was to give “ownership” of the program to the local bar and to other local institutions, including faith based organizations, with much closer relationships to the private attorneys in their areas, private attorneys have been much more willing to participate in the effort and to provide pro bono services.

However, if LSC were to require that all of the clients served by both OLSLA and the clinics be considered to be OLSLA clients, much of the progress of the last several years would be undermined. Conflicts of interest rules would severely limit the ability of OLSLA to serve individuals where an adverse party had been served by one of the clinics and vice versa. The sense of ownership of these clinics by the bar and faith-based community that has contributed so greatly to their success would be significantly reduced. Rather than narrowing the justice gap by leveraging the resources of the private bar to handle additional clients, this requirement would have the effect of excluding many individuals who are now able to receive assistance from either OLSLA or the clinics.

LSC should be flexible in interpreting Part 1614 and should permit programs to use their creativity and imagination in order to achieve the goals of the PAI program to expand the availability of legal assistance through the involvement of private attorneys.

We urge LSC to reconsider this issue and to permit OLSLA to count the costs associated with its support for the pro bono clinics for purposes of its PAI allocation. We would like to have an opportunity to discuss this issue with both of you. Please contact Linda to set up a time for a meeting. She can be reached at 202-906-8002 or at lperle@clasp.org.

Name	NLADA – Silvia Argueta
Topic 1: LSC Pro Bono Task Force Recommendation 2(a) - Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives.	
X	How are legal service providers engaging new categories of volunteers? What are the needs of these new categories of volunteers?
X	What are the obstacles to LSC grant recipients' full use of these volunteers?
X	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the supervision and training of these volunteers?
X	How can LSC ensure against fraud, waste, or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
X	To the extent applicable, discuss how any approaches you recommend might be implemented.
X	Other issues related to Topic 1 (please specify in your submitted outline).
Topic 2: LSC Pro Bono Task Force Recommendation 2(b) - Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.	
X	How are recipients currently using integrated intake and referral systems?
X	Do LSC's current PAI regulations inhibit full use of integrated intake and referral systems?
X	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to create and staff integrated intake and referral systems?
X	How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
X	To the extent applicable, discuss your organization's ability to execute any recommended approaches.
X	Other issues related to Topic 2 (please specify in your submitted outline).
Topic 3: LSC Pro Bono Task Force Recommendation 2(c) - LSC should reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.	
X	How are recipients currently using or supporting pro bono volunteers in brief service clinics?
X	What are the obstacles to recipients' use of pro bono volunteers in brief service clinics?
X	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics?
X	If LSC were to allow recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics under circumstances where the users of the clinics are not screened for LSC eligibility or accepted as clients of the recipient, how could that change be implemented in a manner that ensures compliance with legal restrictions on recipients' activities and uses of LSC funds?
X	How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
X	To the extent applicable, discuss your organization's ability to execute any recommended approaches.
X	Other issues related to Topic 3 (please specify in your submitted outline).

ATLANTA LEGAL AID SOCIETY, INC.

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Executive Director

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Stephen Krumm
Catherine C.
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Karen E. Brown
Roshonda Davis-Baugh
Anne E. Carder
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John R. Warchol
Dina Franch
Kristin Nelson Verrill
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Megan L. Miller
Elena M. Mushkin
Martha A. Fineman-
Sowers
Craig L. Goodmark
Elizabeth Ann Guerrant
Rachel M. Lazarus
Andrea Espie Landers
Kevin A. Anderson
Kate M. Gaffney
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Sarah Beth Stephens
Rachael Scott
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Payal Kapoor
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J. Erik Heath
Allison Stiles
Saadia A. Memon
Brianna H. Erwin
Lori E. Quesada
Jessica Felfoldi
Ángela Vela Ramirez
Pam Kraidler
Cristina Dumitrescu

Mark Freedman
Senior Assistant General Counsel
Legal Services Corporation
3333 K. Street, NW
Washington DC 20007

Dear Mark:

I wish to participate at the PAI workshops as a panelist—preferably in the first workshop in Denver.

The key points that I would like to make as a panelist involve having the regulation either be interpreted or amended to allow for a less restrictive and longer long term view of what it means to have private attorney involvement and support for the work of LSC recipients.

The appropriate (and I believe original) purposes of the PAI regulation are to insure that private attorneys have a stake and investment in the provision of legal services to low income people while at the same time doing so within a framework which makes it likely that the services they provide are as much as possible in priority areas. An underlying purpose of the regulation is to help develop coordination between local legal services providers and private attorneys, both to better organize the provision of the services and also to build bridges between legal aid programs and the private bar. The present regulation or the way it has been interpreted undercut these purposes in each of areas that LSC wishes addressed.

Topic 1. Presently LSC does not give credit toward the PAI requirement for resources spend supervising law students, law graduates or deferred associates because they are technically not attorneys eligible to practice. This view is shortsighted. Many if not most of these aspiring attorneys will become licensed and training provided to them before they practice gives them a stake and investment in providing legal services to our clients. It also gives them additional ability to do so once they become licensed. And it ties them more closely to our programs and makes it more likely that when they do practice, they will continue to provide services through our programs and will be supportive of our work and of our programs.

Dawn M. Jones
President

Catherine Acree
Vice President

William Stanhope
Treasurer

Chad Allan Shultz
Secretary

Michael W. Rafter
Immediate Past Pres

June 25, 2013

Mark Freedman
Senior Assistant General Counsel
Legal Services Corporation
June 25, 2013
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Topic 2. While we normally think of private bar involvement as the provision full representation, in fact many private lawyers who want to volunteer want to take on more limited services. They may be hesitant about time commitments or they may be nervous about full representation of clients in areas outside their specialty and often they are reticent to go to court. To make best use of private attorneys to help our clients we need to encourage more limited commitments like screening, advice and referrals. We have also learned that these services have value for our clients, and are a necessity given our limited resources.

Topic 3. While in theory the best use of private attorney resources would be on the cases that programs considered the highest possible priorities--those cases that staff attorneys would take. In fact, it is often not possible to persuade private attorneys to take those cases, and often the cases that they will take are ones that are less complicated and require less urgent action. However, these cases are nonetheless important to our clients even though we do not have the in house resources to handle them. In addition it is not always possible to determine exactly how much of the support provided to private attorneys results in support to eligible clients. And if the provision of the services are in clinics or hotlines, trying to determine eligibility undercuts the purposes of providing quick services.

I understand that giving PAI credit does not determine whether programs will necessarily use private attorneys in a particular way. Our program for instance has many mechanisms for involving the private bar in our work and we well exceed the 12 and 1/2 percent requirement regardless of how LSC interprets 1614. However whether a particular practice is counted undoubtedly does skew what some programs do, and the present limited application of the PAI requirement pushes program not to use the resources of the private bar in a way which bests conforms to the desires of private lawyers or best meets the needs of our clients.

My current resume is attached. I would add that our program has long been in the forefront of private attorney involvement. Our Saturday Attorney program has been in continuous operation for over 40 years. And in addition to traditional pro bono programs, we have had signature projects with various law firms to do eviction protection, unemployment compensation and wills. One law firm actually founded and is still the primary referral source for our grandparent (now relative caregiver) project through which adoptions and guardianships are done for relatives taking care of children. We also have had over 50 associate fellows from law firms, and were the first (and perhaps still the only) legal aid program to get a fellow from the corporate legal department; UPS is

Mark Freedman
Senior Assistant General Counsel
Legal Services Corporation
June 25, 2013
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now on its third fellow. Finally, we had the honor of have the former governor of Georgia, Roy Barnes, volunteer for 6 months on our staff after he was defeated for reelection.

I have also attached the checklist.

Thank you for considering me as a panelist.

Sincerely,



Steve Gottlieb
Executive Director

Name	Steve Gottlieb
Topic 1: LSC Pro Bono Task Force Recommendation 2(a) - Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives.	
x	How are legal service providers engaging new categories of volunteers? What are the needs of these new categories of volunteers?
x	What are the obstacles to LSC grant recipients' full use of these volunteers?
x	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the supervision and training of these volunteers?
x	How can LSC ensure against fraud, waste, or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
x	To the extent applicable, discuss how any approaches you recommend might be implemented.
	Other issues related to Topic 1 (please specify in your submitted outline).
Topic 2: LSC Pro Bono Task Force Recommendation 2(b) - Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.	
x	How are recipients currently using integrated intake and referral systems?
x	Do LSC's current PAI regulations inhibit full use of integrated intake and referral systems?
x	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to create and staff integrated intake and referral systems?
x	How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
x	To the extent applicable, discuss your organization's ability to execute any recommended approaches.
	Other issues related to Topic 2 (please specify in your submitted outline).
Topic 3: LSC Pro Bono Task Force Recommendation 2(c) - LSC should reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.	
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x	What are the obstacles to recipients' use of pro bono volunteers in brief service clinics?
x	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics?
x	If LSC were to allow recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics under circumstances where the users of the clinics are not screened for LSC eligibility or accepted as clients of the recipient, how could that change be implemented in a manner that ensures compliance with legal restrictions on recipients' activities and uses of LSC funds?
x	How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
x	To the extent applicable, discuss your organization's ability to execute any recommended approaches.
	Other issues related to Topic 3 (please specify in your submitted outline).

STEVEN GOTTLIEB

Professional

- Executive Director, Atlanta Legal Aid Society
July 1980 – Present

Responsible for an organization of about 120 employees at multiple locations, with a budget over \$8.5 million. Atlanta Legal Aid provides civil legal services to low-income persons in the five county metro Atlanta area. In addition to five core legal areas (family law, housing, healthcare, consumer finance and government benefits), Atlanta Legal Aid has ten special practices: Senior Citizens Law Project, Long-Term Care Ombudsman Program, Disability Integration Project, Home Defense Program, AIDS/ALS/Cancer Initiative, Hispanic Outreach Law Project, Grandparent/Relative Caregiver Project, Georgia Senior Legal Hotline, TeamChild Atlanta and the Health Law Partnership.

- Deputy Director, Atlanta Legal Aid Society
January 1977 – July 1980
- Managing Attorney, Savannah Regional Office
Georgia Legal Services Program
July 1974 – December 1976
- Staff Attorney and Managing Attorney
Atlanta Legal Aid Society
July 1969 – June 1974

Education

University of Pennsylvania Law School, LL. B. 1969
Hamilton College, Clinton NY – B.A. 1963

Awards

American Bar Association, 1994 John Minor Wisdom
Public Interest and Professionalism Award
Anti-Defamation League, 1999 Elbert P. Tuttle Jurisprudence Award
Atlanta Bar Association, 2000 Leadership Award
Emory University School of Law, 2007 EPIC Inspiration Award
State Bar of Georgia, 2009 Justice Thomas O. Marshall Professionalism Award
Georgia Bar Foundation, 2009 James M. Collier Award
Georgia State University College of Law, 2009 Ben F. Johnson, Jr.,
Public Service Award
Management Information Exchange, 2010 Lifetime Achievement Award
2012 Turknett Leadership Character Award, 2012



COURT OF COMMON PLEAS

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June 25, 2103

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Attn: Mark Freedman

Senior Assistant General Counsel

Dear Mr. Freedman:

Please consider this correspondence as my request to participate, on behalf of the Greater Dayton Volunteer Lawyers Project (GDVLP), as a panelist in Denver at the Workshop to revise the LSC Private Attorney Involvement (PAI) Regulation to enhance pro bono service. I am the immediate past president of GDVLP and have served on the Board of Trustees of that organization since approximately 2005. The GDVLP is an independent pro bono program first established in 1988 and is an LSC sub-grantee of Legal Aid of Western Ohio (LAWO). The program has approximately 850 attorneys registered with it to provide legal services in a seven county region in western Ohio. Since 1988 the attorneys providing service through GDVLP have donated over \$13.7million in legal services in the region.

The outline of my discussion is as follows:

Topic 1 - Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted to PAI obligations, especially in "incubator" initiatives

Before LSC allows the dilution of the 12.5% already designated, LSC should:

- a. Insure that the LSC grantee **first** has a viable pro bono program. An expansion of programs, without ensuring that the programs are well-organized and managed, could dilute available funds for existing PAI programs where programs are now minimal. It is not additional programs, in and of itself that is necessary, it is the support of existing viable programs. Having volunteers is not necessarily the problem. It is the viable nature of the structure of the pro bono program that is key to the delivery of services. If the program structure is not adequate, even in light of significant volunteers, services cannot be delivered. Engaging new volunteers is rather easy for the GDVLP because of a culture in the community that expects pro bono service from

attorneys and law students and a predictable structure to the program that ensures volunteers that their services will be utilized for those that are vulnerable and in need.

- b. Require that every pro bono program receiving funding have a dedicated employee committed to volunteer management. This should not be a secretary that also covers the reception area, nor an attorney who also carries a case load but a **qualified manager of the volunteers**. A pro bono professional should be viewed as a volunteer management position. The care and feeding of legal community volunteers serves to expand resources that are available to the low income community. It is not the delivery of services that is at issue, but the coordination of the referral of cases to the appropriate volunteer.
- c. Encourage the private bar to take ownership in its pro bono program. When the private bar perceives itself as the owners of a pro bono program, that program becomes a complement to legal aid. The Public and Private bar working hand in hand can go far in providing services to those in need. GDVLP is a stand-alone program which complements Legal Aid.
- d. Before expanding what PAI money can be spent on, it is important to consider what makes a successful pro bono program and whether the grantee is working to create one or working to enhance its existing programs.
 1. Ownership by the private bar – the private bar has many attorneys experienced in family law, consumer law, employment law, bankruptcy. These are the cases that should be referred through a pro bono program. Public Interest law is the expertise of the legal aid lawyer. When you consider the above as the primary relationship, pro bono can expand exponentially.
 2. If PAI money is spent on supervision and training of volunteers, although of value for some well established PAI programs, this could be a dilution of the 12 ½% in programs that do not have well established programs. Perhaps the expansion to supervision and training could be tied to satisfactory PAI statistics from previous years, or documentation of a pro bono professional working with an board or advisory board.
- e. Many successful PAI programs are stand-alones or are located within the Bar Association. It is important to work closely with those programs rather than create a different program that would be in competition with the Bar program. Programs such as GDVLP which are administered by the private bar are very valuable assets in the delivery of pro bono services and cannot be disregarded nor left out of the discussion about pro bono work.

Topic 2 - Enhance screening, advice and referral programs

Before LSC allows the dilution of the 12.5% already designated, LSC should:

- a. Recognize that integrated intake and referral systems are already being used but are inadequately funded to meet customer needs. The greatest impediment to the delivery of services for GDVLP is the lack of referrals from the integrated system – GDVLP has the capacity to serve many more clients than it does, but without sufficient referrals, the volunteers who are eager to do pro bono work are left without the opportunity to serve those in need.
- b. LSC's current PAI regulations inhibit full use of integrated intake and referral systems – while there are 850 attorneys in our program, they often do not get assigned cases because of the inadequate nature of the referral system.
- c. Recognize that LSC's current regulations do not inhibit full use of integrated intake and referral systems.
- d. Again, diluting the use of PAI monies needs to have some restrictions if we are to insure a viable complementing PAI program for an LSC Grantee.
- e. Recognize that volunteers could also be utilized to do screening and intake. We have begun a project with a very large firm whereby their attorneys will volunteer to do screening and intake outside of the referral system through Legal Aid, which will increase the number of individuals who obtain service because they are not captive to the existing integrated referral system.

GDVLP has a very dedicated and committed Board of Trustees and Advisory Board which is fully prepared, with the assistance of our full-time staff members, to implement any recommended approaches. GDVLP, and its 850 very dedicated attorney volunteers, stands ready, willing and able to provide many more hours of volunteer services on an annual basis, but are hampered in our ability to do so because of the referral process. However, we will continue to attempt to find innovative ways to provide service even in light of the referral system.

Topic 3 – LSC should reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.

I do not intend to address this topic.

Very truly yours,


Judge Mary Katherine Huffman

Name	Mary Katherine Huffman
Topic 1: LSC Pro Bono Task Force Recommendation 2(a) - Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives.	
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X	How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
X	To the extent applicable, discuss your organization's ability to execute any recommended approaches.
X	Other issues related to Topic 2 (please specify in your submitted outline).
Topic 3: LSC Pro Bono Task Force Recommendation 2(c) - LSC should reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.	
	How are recipients currently using or supporting pro bono volunteers in brief service clinics?
	What are the obstacles to recipients' use of pro bono volunteers in brief service clinics?
	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics?
	If LSC were to allow recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics under circumstances where the users of the clinics are not screened for LSC eligibility or accepted as clients of the recipient, how could that change be implemented in a manner that ensures compliance with legal restrictions on recipients' activities and uses of LSC funds?
	How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
	To the extent applicable, discuss your organization's ability to execute any recommended approaches.
	Other issues related to Topic 3 (please specify in your submitted outline).

Judge Huffman has been a General Division Judge since 2002. She serves as the Chair of the Personnel Committee, and serves on the Budget, Civil Practice, and Executive Committees. From 2007-2010 Judge Huffman Presided over the Common Pleas Court's Drug Court and presided over the court's Non-Support Court from 2005-2006.

Judge Huffman received her B.A. in political science from Wright State University and her J.D. from the University of Dayton School of Law, graduating summa cum laude from each institution. She is currently enrolled in a Masters program in judicial studies at the University of Nevada. In 2007 Judge Huffman was honored with the Distinguished Alumni Award from the University of Dayton School of Law Alumni Association.

Prior to judicial service, Judge Huffman was a partner in the law firm of Huffman, Landis & Weaks, and served as Special Counsel to the Ohio Attorney General. She was also an active participant in the Volunteer Lawyer's Project.

Judge Huffman is a member of the American, Ohio and Dayton Bar Associations, the Ohio Common Pleas Judges Association, and is a Master at the Carl Kessler Inn of Court, serving as that organization's President from 2011-2013. She serves on the Judicial Advisory Group as well as the Specialized Courts Committee of the Ohio Judicial Conference. In 2007 Judge Huffman completed mediation training at the National Judicial College.

Judge Huffman has taught continuing legal education seminars for the Dayton Bar Association, the Family Law Forum, the University of Dayton School of Law Alumni Association, and the Inn of Court. She also is an adjunct faculty member at the University of Dayton School of Law, teaching a variety of courses including Interviewing, Counseling and Negotiation, Criminal Trial Practice, Business Organizations, Criminal Sanctioning and Adoption Law.

Judge Huffman serves on the Board of Trustees of the Greater Dayton Volunteer Lawyers Project and serves as President of the Board of Trustees of the University of Dayton School of Law Alumni Association. She serves as Vice-President of the Board of Trustees of the Dayton Bar Association and will assume the presidency of that organization in June, 2013. Until recently Judge Huffman was actively involved in youth soccer, serving as a coach, and for almost twenty years as a member of the Board of Directors of the Miami Valley Youth Soccer Association and for twelve years on the Board of Directors of the Ohio South Youth Soccer Association. In 2013 she was awarded the Miami Valley Youth Soccer Association Lifetime Achievement Award.

MARY KATHERINE HUFFMAN

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Centerville, Ohio 45458
(937)212-1605
katehuffman61@gmail.com

Education: B.A. Political Science, *summa cum laude*, Wright State University, 1985

Juris Doctorate, University of Dayton School of Law, *summa cum laude*, May, 1990; Pi Sigma Alpha; Member, 1988-1990, and Executive Editor, 1989-1990, University of Dayton, Law Review

Additional graduate work, University of Virginia, 1985-1986

Currently enrolled at University of Nevada, Reno in Masters Program in Judicial Studies, projected graduation June, 2014

Additional Professional Training: Comprehensive Drug Court Judicial Training
Mediation Training

Professional Experience: Judge, Montgomery County Common Pleas Court, February, 2002 - present

Current Court Committee membership:
Personnel Committee (Chair)
Budget Committee
Executive Committee
Criminal Practice Committee

Non-Support Court Judge, January, 2005 – December, 2006
Drug Court Judge, January 2007 - December, 2010

Partner, Huffman, Landis & Weaks Co., LPA
Trial Attorney; practice included domestic relations, appellate practice, medical malpractice, personal injury, consumer actions, felony and misdemeanor criminal matters, probate matters; November, 1990 - February, 2002

Special Counsel to the Attorney General

Bar Admissions:

Ohio, November 1990 - present

Current Professional Organizations
and Committees:

Ohio State Bar Association
Dayton Bar Association, First Vice President
Common Pleas Judges' Association
Inns of Court, Chair
Specialty Courts Committee and
Judicial Advisory Group of the Ohio Judicial
Conference
Greater Dayton Volunteer Lawyers Project,
Immediate Past President
University of Dayton School of Law Advisory
Council
Ohio Supreme Court Lawyer to Lawyer Mentoring
Program Member

Published Articles:

"Tort Law: Social Host Liability for the Negligent
Acts of Intoxicated Minors," 14 University of
Dayton Law Review 377 (1989).

"Immunity and Mental Health Professionals," 33
University of Dayton Law Review 265 (2008).

Teaching Experience:

Adjunct Faculty, University of Dayton School of
Law, Fall, 2003 - present (courses taught include
Landlord/Tenant Law, Business Organizations,
Interviewing, Counseling and Negotiation, Family
Law, Criminal Sanctions, Adoption and Assisted
Reproduction Law, Criminal Trial Practice, The
Death Penalty).

Adjunct Faculty, Sinclair Community College, Fall,
2005 – present (courses taught include Business
Law, Real Estate Law, and Contracts Law for
Paralegals).

Professional Achievements

University of Dayton School of Law, Outstanding
Academic Achievement Award; Dean Richard L.
Braun Award for Outstanding Legal Authorship;
Lawyer's Lawyer Award; Montgomery County
Domestic Relations Court Law Day Award;
Distinguished Alumni Award, University of Dayton

School of Law, 2007; University of Dayton School of Law Commitment to the Community Award, 2008

Other Past Professional Activities:

Criminal Justice Council, Domestic Violence Subcommittee; Participant, Volunteer Lawyer's Project; Presenter, People's Law School; Presenter of continuing legal education for the Dayton Bar Association, Ohio State Bar Association, Ohio Judicial Conference and Family Law Forum; Reader, Ohio Supreme Court, Bar Examination, 1995 - 1999; 2004 Co-Chairman Dayton Bar Association Bench-Bar Conference; Montgomery County Alcohol and Other Drug Abuse Task Force, Co-Chair Drug Court Committee; Montgomery County Alcohol and Other Drug Abuse Implementation Advisory Team, Co-Chair Drug Court Implementation Committee

Community Activities:

President, Board of Trustees, University of Dayton School of Law Alumni Association; Miami Valley Youth Soccer Association, Board Member, 1994-2012, President, 1999-2009; Ohio South Youth Soccer Association, President, 2007 – 2010, Board Member, 2000 - 2012; Youth recreation and select soccer coach 1990 - 2001; Former Board Member, Kids' Turn; Volunteer, Habitat for Humanity; Nominee, Miami Valley's Finest, Cystic Fibrosis Foundation, 2002

MEMORANDUM

To: Mark Freeman, Legal Service Corporation PAI Rulemaking Workshop Coordinator

From: Joan Kleinberg and Deborah Perluss

Date: June 25, 2013

Re: Qualifications and Proposed Outline of Key Points re PAI Rulemaking Workshop Topics (CORRECTED)

Qualifications of Proposed Panelists: *Joan Kleinberg* is the Northwest Justice Project's Director of Strategic Initiatives and Private Bar Involvement. She has over 30 years of experience working in legal aid programs in Washington and over 20 years of experience managing private bar involvement programs. From 1982 through 1995, Ms. Kleinberg was the director of the Evergreen Legal Services Private Attorney Involvement Contract Attorney Program, which operated in nine counties throughout Washington State. In 1996, Ms. Kleinberg became the Director of the Northwest Justice Project's (NJP's) Coordinated Legal Education, Assistance, and Referral (CLEAR) hotline system, as well as NJP's Director of Private Bar Involvement. Ms. Kleinberg's responsibilities recently shifted to developing strategic initiatives related to NJP's implementation of specific objectives set out in our Strategic Plan. These include expanding use of targeted pro bono services to support NJP's advocacy efforts, planning-based data analysis, evaluating service outcomes, developing mentorship programs, and other objectives. Ms. Kleinberg continues as Director of Private Bar Involvement. In that capacity she is responsible for development and implementation of NJP's PAI plan, interacting with Washington's many bar association-based pro bono programs and their coordinators, and continuing to exercise authority and supervision over NJP's Contract Attorney Program.

Deborah Perluss is NJP's Director of Advocacy/General Counsel. She too has over 30 years of experience working in legal aid programs in Washington. She has served in her current position since 1996. Ms. Perluss is responsible for overseeing NJP's LSC compliance systems and related program policies. Ms. Perluss is also responsible for overseeing NJP's risk management and professional ethics systems, and, along with the Executive Director, various other programmatic functions. In her capacity as Director of Advocacy, Ms. Perluss also supports NJP attorneys and advocates in promoting program excellence, undertaking strategic advocacy, and in their professional development.

Key Points to be Addressed Topic 2: **Grantees should be allowed to spend PAI resources to enhance their screening, advice and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.**

NJP supports this recommendation. Ms. Kleinberg proposes to address the following points:

1. How are recipients currently using integrated intake and referral systems?

- Programs and delivery systems are configured in many different ways and there should be latitude for activities that achieve LSC’s private attorney involvement goals to count toward the PAI requirement.
- Washington has a long history of independent pro bono programs. Local lawyers are highly motivated by and relate to their own community-based volunteer program efforts to provide services for low-income persons in their communities. NJP has developed a collaborative system of support for the 17 small independent volunteer lawyer programs (VLPs) located throughout Washington and fosters efficient and effective service by local lawyers who volunteer with those programs.
- Pursuant to Washington’s *State Plan for the Delivery of Legal Services to Low-Income Persons*, NJP has been assigned responsibility to “serve as the primary client entry point into the legal services delivery system, employing existing and emerging technologies to expand and integrate client intake, screening and referral capacities to serve all primary service delivery components of the system.” NJP undertakes this responsibility by providing pro bono attorney and VLP support through its CLEAR hotline services.
- NJP’s CLEAR screens prospective clients for eligibility, priority-and problem type. Referral is based on information provided by the VLPs regarding the types of cases their attorneys are open to taking.
- CLEAR attorneys provide case analysis, advice, and as appropriate limited legal assistance to eligible clients who then may be referred for additional help to one of the 17 VLPs.
- VLP staff manage services for people who are eligible for their programs and connect eligible clients with pro bono lawyers in their communities through a variety of service settings. Because intake and screening for these programs is centralized at NJP, prospective clients are freed from having to duplicate intake and screening effort throughout the state.
- NJP and the VLPs use an integrated (but not unified) case management system. NJP is able to electronically refer clients to the volunteer lawyer program. NJP is able to easily learn whether the VLP accepts the referral.
- Based on a recent survey by a VLP funder, VLP staff report that CLEAR support serves low-income client needs as follows:
 - Clients with urgent legal problems referred from CLEAR benefit from being able to speak with an attorney and receive legal advice sooner than they can get an appointment to speak with a volunteer attorney. CLEAR provides an essential guide regarding the legal problem and need for legal help that assists the executive director’s efforts to assist the client post-referral.
 - CLEAR’s intake significantly reduces the amount of time required by VLPs to conduct intakes thereby allowing more time to be devoted to client services and program needs.

2. Do LSC's current PAI regulations inhibit full use of integrated intake and referral systems?

- Current interpretation inhibits integration of staffed programs with independent volunteer lawyer programs because: (1) NJP's intake and referral efforts have been determined by LSC to not "support" the VLP efforts to provide legal assistance to eligible clients as "support" in 45 C.F.R. § 1614.3 has been interpreted by LSC; (2) NJP does not operate an in-house pro bono program and is loath to compete with community-based pro bono efforts that otherwise occur statewide in Washington; (3) as currently interpreted the PAI regulations impair NJP's assigned role under our *State Plan* and hence impair the highly integrated legal aid delivery system developed in Washington; (4) the need to replace the locally-based VLP effort in Washington with an in-house pro bono/private attorney involvement program would provide little value-added to the pro bono services currently available to low-income persons in Washington, and would likely threaten to reduce those efforts.

3. Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to create and staff integrated intake and referral systems?

- Yes. Such systems can achieve LSC's goal of "generating the most possible legal services for eligible clients from available, but limited, resources."

4. How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?

- LSC can require recipients to certify that the activity allocated to the PAI requirement is consistent with the regulation. LSC can rely on the Independent Audit requirements to ensure that the allocation is based on generally accepted accounting principles and can be supported by a mechanism such as percentage of cases referred to external VLPs, percentage of time spent on intake and referral, and other similar criteria that justifies the allocation.
- LSC can require recipients to confirm VLP program acceptance of referrals and/or percentages of referrals resulting in assistance by a pro bono attorney.

5. To the extent applicable, discuss your organization's ability to execute any recommended approaches.

- NJP's accounting systems and accounting efforts are highly regarded and offer substantial program accountability and integrity. NJP has always received an unqualified audit, including prior to 2007 when NJP was advised that it could not allocate a percentage of CLEAR staff time used for the intake and referral process to PAI. NJP has no doubt that it can meet independent auditing standards for appropriate allocation of this support time to PAI.
- In response to LSC's concerns articulated in 2007, NJP built additional functionality into the case management systems used by NJP and the volunteer lawyer programs to

receive reports of whether a referred client received legal assistance from a volunteer lawyer.

Key Points Addressed to Topic 3: LSC should examine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.

NJP supports this recommendation. Ms. Perluss proposes to address the following points:

- 1. How do recipients currently use or support pro bono volunteers in brief service clinics?**
 - NJP currently supports pro bono volunteers by: (a) sponsoring one in-house limited assistance clinic for immigrant and refugee victims of domestic violence; (b) supporting several courthouse-based limited assistance Housing Justice Projects (HJPs) operated by the local VLP, for tenants facing eviction, through referring prospective clients to HJPs, training HJP volunteers, and being available to provide technical assistance and indirect support to HJP volunteers on-site; and, (c) providing intake screening and referral of prospective clients to VLP-based brief service clinics through CLEAR. NJP also supports a courthouse-based debt clinic serving defendants in collection actions through volunteer attorneys.
- 2. What are the obstacles to recipients' use of pro bono volunteers in brief service clients?**
 - NJP has no obstacles to assisting pro bono volunteers in VLP-based clinics, except that currently NJP is not able to allocate resources for the intake and referral services to its PAI obligation. This is because NJP does not count these referrals as "cases" for PAI or CSR purposes. Hence, LSC loses the benefit of being able to demonstrate how its resources are highly leveraged through a broad reach of community-based services to the extensive benefit of low-income persons throughout the state.
- 3. Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics?**
 - Yes. Current language of the PAI regulation would appear to allow this, except for the narrow interpretation that LSC has superimposed on the language of the regulation.
- 4. If LSC were to allow recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics under circumstances where the users of the clinic are not screened for LSC eligibility or accepted as clients of the recipient, how could that change be implemented in a manner that**

ensures compliance with legal restrictions on recipients’ activities and uses of LSC funds?

- For NJP, prospective clients are screened for LSC eligibility before they are referred to VLP brief service clinics. NJP is able to document referrals to such clinics for persons who are LSC eligible and could relate the percentage of referrals to a reasonable and justifiable percentage of costs associated only with those referrals, subject to Independent Auditor review.
- Persons referred to the NJP-sponsored domestic violence clinic are LSC eligible.
- Training and support provided to the Housing Justice Projects or Debt Clinic are not specifically client-based but “support” the pro bono work of private lawyers serving persons assisted by these clinics. That “support” time serves LSC eligible low-income persons and should be appropriately allocated to PAI.

5. How can LSC ensure against fraud, waste or abuse related to implementing this recommendation?

- Same as above, with appropriate guidance for Independent Auditors and use of generally accepted accounting principles to support the allocation. This could be based on a percentage of time related to the number of persons referred to the clinics who are LSC eligible, or time spent by NJP staff attorneys on training and support of pro bono clinic services based on time records. However, it would be extremely burdensome and inappropriate to require recipient staff attorneys to inquire into the eligible status of every person the clinic serves prior to providing training or technical assistance to a pro bono lawyer.

6. Discuss your program’s ability to execute any recommended approaches.

- Same as above.

NJP also supports the recommendation of Topic 1, that would authorize the counting of resources spent supervising and training law students, law graduates, deferred associates and other volunteers toward recipients’ PAI obligations. NJP spends significant time to ensure that law students and other volunteers, including Fellowship volunteers, have a valuable experience and develop significant skills through direct assistance of eligible clients in a range of legal proceedings. In our experience, these opportunities, the skills gained, and the cultural connection to the equal justice community that comes from this service, inculcates a life-long commitment to pro bono service among cadres of legal aid volunteers.

C: César E. Torres, Executive Director

Name	Joan Kleinberg / Deborah Perluss
Topic 1: LSC Pro Bono Task Force Recommendation 2(a) - Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives.	
	How are legal service providers engaging new categories of volunteers? What are the needs of these new categories of volunteers?
	What are the obstacles to LSC grant recipients' full use of these volunteers?
	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the supervision and training of these volunteers?
	How can LSC ensure against fraud, waste, or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
	To the extent applicable, discuss how any approaches you recommend might be implemented.
	Other issues related to Topic 1 (please specify in your submitted outline).
Topic 2: LSC Pro Bono Task Force Recommendation 2(b) - Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.	
✓	How are recipients currently using integrated intake and referral systems?
✓	Do LSC's current PAI regulations inhibit full use of integrated intake and referral systems?
✓	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to create and staff integrated intake and referral systems?
✓	How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
✓	To the extent applicable, discuss your organization's ability to execute any recommended approaches.
	Other issues related to Topic 2 (please specify in your submitted outline).
Topic 3: LSC Pro Bono Task Force Recommendation 2(c) - LSC should reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.	
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✓	How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
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	Other issues related to Topic 3 (please specify in your submitted outline).

LEGAL SERVICES OF NORTHERN MICHIGAN, INC.

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May 9, 2013

Mark Freedman
Senior Assistant General Counsel
Legal Services Corporation
3333 K Street NW
Washington, DC 20007

RE: Rule making workshops July 23, 2013 & September 17, 2013

Mr. Freedman:

I would like to express my interest in participating as a panelist for either or both of the rule making workshops listed above. Legal Services of Northern Michigan has been a pioneer in using the internet to allow private attorneys to provide counsel and advice services to low income individuals (IRP project). LSNM's IRP project went live in June of 2006 and since then the private attorneys servicing the site have responded to question from 3,706 low income individuals. Several other programs have replicated LSNM's project, but the project and the replication are being restrained by LSC's current interpretation of 45 CFR 1614.

In addition to my involvement with the internet based delivery, I am intimately familiar with the unique challenges faced by rural programs in establishing pro bono delivery models. LSNM is a program that covers 36 counties in Michigan and it is exclusively rural. I have been with the program for 34 years (15 as a staff attorney) and am a life time resident of the region so I have experienced the issues and attitudes of the private bar regarding pro bono services. LSNM is involved in several different PAI models which include: contract attorneys, a traditional clinic program, "how to" workshops and old fashion local arm twisting. Many of these efforts go unreported under present day LSC rules.

Please consider me as a panelist for the upcoming workshops. I believe I can provide a unique and informed prospective on the issues surrounding PAI delivery and reporting rules.

Sincerely,

Kenneth Penokie
LSNM Director



LSC PAI Workshop

Key Points

Topic 1

In rural communities there are several obstacles to the recruitment of pro bono legal services that are missed by the Report of the Pro Bono Task Force. Some of these are:

A. Conflict of Interest. Start with an understanding that rural communities have few attorneys.¹ The firms are small and have modest incomes. These firms/sole practitioners are very concerned that they will lose cases because they are handling a pro bono case which conflicts them from taking a paying case. In addition, the very same attorneys who are willing to do pro bono will be opposing parties in cases handled by the legal services program.

B. Limiting exposure. Traditionally we think of an attorney's exposure in terms of the time required to handle a case or legal issue. That exposure is limited by a careful screening and selection of cases referred. However, in rural areas exposure also includes "becoming the town's free attorney" and the "attorney for life" syndrome. Once a rural attorney handles one or two pro bono cases in an effective matter, word of mouth spreads throughout the area and s/he receives a torrent of requests for free work. The exposure is not just during work hours, but at community and social events. In addition, because the communities are small the client who was assisted will treat the attorney as his/her personal attorney (and for that of his/her friends) for life.²

C. Record keeping. If rural attorneys take pro bono cases, they don't want to be bothered by a lot of follow-up work, phone calls or other paper work. They just want to do the case and not be bothered. Amazingly, our experience is that most claim not to want public thanks or acknowledgment of their good work. Perhaps this is because of the factor listed above.

D. Accounts receivable. The prevalent feeling among small firms and solo practitioners in rural areas is that their accounts receivables are their pro bono work. Most attorneys practicing in rural areas struggle to make a modest living. Their clients are likewise struggling and are sometimes unable to pay their bills fully. These factors taint the waters for pro bono recruitment. State Bar Associations work hard to encourage pro bono and to dispel the notion that accounts receivables meet pro bono standards, but the fact is the attitude persists.

¹33 of LSNM's 36 counties have between 10 and 25 attorneys. Of those only about 2/3's would be available for pro bono.

². LSNM's Board Chair assisted one client in his early days of practice and has received four or five requests for help from her each year for the past 40 years.

There is an adage that all pro bono is local. No where is that more true than in rural areas. Most of the pro bono case placement within our service area is accomplished by local staff attorneys because of their relationship with local bar members. The same goes for recruiting attorneys to assist with clinics or similar efforts. The recruitment requires an understanding of the limitations of rural practice and the ask must have built in safe-guards for the attorneys.

Topic 3

Current rule interpretations place some troubling hurdles to the implementation of pro bono services. Most of the hurdles surround the collection of data and reporting requirements. It is noted above that conflict of interest is a potential obstacle for private attorneys when considering pro bono legal work. It is also a serious issue for legal service programs.

Conflict: To be able to count a case under 45 CFR 1614 the current interpretation of the regulations require a program to perform a full intake on the potential pro bono client and to maintain that information in a case management system data base. These intakes include, income and asset information and issue identification information. Many bar associations deem this information confidential and enough to create a conflict if an opposing party were to contact the program for services. In full service, rural legal services programs, this conflict can cause a major problem with the delivery of core priority legal representation. The most obvious example is with domestic violence cases. Many programs, such as LSNM, have the protection of domestic violence victims as a top priority. However, if that program is involved in a clinic program with the required screening and data collection, it can easily be conflicted by the abuser's attendance at the clinic. In urban areas this might not be an issue as there are various alternative programs to assist domestic violence victims. In rural areas, the LSC funded legal aid program is often the only alternative.³ A pro bono effort that allows core priorities to be exposed to a conflict of interest is one that is defeating the purpose of adding resources for the low income community.

Avoidance of conflicts are not difficult. With a clinical program, necessary data can be collected in a data base accessible only to the clinic and reporting can be stripped of identifying information (unique numerical identifiers used instead of names etc...). Online services can likewise be set up to preserve anonymity while still collecting necessary reporting data.

Cost: The current paradigm is for a legal services program to completely own anything that is reported as pro bono case. Owning the case includes a full intake with income, asset and subject matter screening, targeted referrals, regular follow-up, timely closing and outcome measures. There should also be good stories collected. As noted above this paradigm limits a programs range of pro bono involvement because of potential conflicts. It is also true that the paradigm is expensive requiring an extensive investment of program capital. The more capital

³It should be noted that, because of the time consuming and difficult nature of domestic violence cases, they are very difficult to place with pro bono attorneys.

invested in the pro bono, the less is available for staff who perform core services. The steeper the cost/benefit curve the less valuable the pro bono services.

The question with many of the issues identified is what is required by 45 CFR 1614. Sections 2(a), 3(c), and 4(a)(2) all require the plan and delivery system to meet the clients needs in an “effective”, “efficient” and “economical” manner. Section 19(c) specifically requires: recipients should attempt to assure that the market value of PAI activities substantially exceeds the direct and indirect costs being allocated to meet the requirements of this Part.

The directives of 1614 should then be overlaid on top of 45 CFR 1611.7 which requires that “a recipient shall make reasonable inquiry regarding sources of the applicant’s income, income prospects and assets.” The question then is: What is reasonable in light of the resources being utilized in a particular pro bono “case”? If a case is being directed to a private attorney for service, the legal services community is not providing any “legal service” to that client. So the risk under any particular pro bono delivery model is that a person who is not financially qualified may get free advice from a private attorney. The exposure is much less than the same client being seen in-house by a program attorney. Since the exposure is less it would follow that a “reasonable” screening process could be less robust and more cost effective.

We are well into the digital age and technology exists to screen potential “clients” for eligibility and placement with a pro bono attorney without the necessity of costly personnel. While it is true that these systems cannot detect every nuance in an answer or potential prevarication, it is also true that they are not subject to human error. Given the very small amount of program investment for these electronic dating systems, electronic screening does represent a “reasonable inquiry.” Especially if they are coupled with some basic instructions to the pro bono lawyers to flag irregularities.

Name	Kenneth Penokie, Director Legal Services of Northern Michigan
Topic 1: LSC Pro Bono Task Force Recommendation 2(a) - Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives.	
	How are legal service providers engaging new categories of volunteers? What are the needs of these new categories of volunteers?
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X	To the extent applicable, discuss your organization's ability to execute any recommended approaches.
	Other issues related to Topic 3 (please specify in your submitted outline).

Summary of Qualifications

For LSC PAI Workshop

Kenneth Penokie

Director of Legal Services of Northern Michigan since 2001.

Deputy Director of Legal Services of Northern Michigan from 1994 to 2001.

Staff attorney in an office mostly staffed by one attorney and responsible for three to five counties from 1979 to 1994.

Legal Services of Northern Michigan service area is exclusively rural and contains over 60% of the land mass of Michigan. The area contains over 27,000 square miles of mixed agricultural and forest land and extends almost 500 miles from one end to the other. The entire service area has less than 2,000 licensed attorneys. Despite these challenges, LSNM has an effective and diverse pro bono component. LSNM's pro bono component includes:

- A weekly walk-in clinical program
- Pro se family law clinics
- Paid PAI contract attorneys
- A reduced fee referral program
- An internet based pro bono counsel and advice program (Pioneered and developed by LSNM)
- Informal case referrals

In addition to LSNM's in-house pro bono efforts I have been involved in various efforts spearheaded by the State Bar of Michigan.

In short I have knowledge, based upon many years of experience, of what pro bono efforts work and what doesn't work in rural areas. The diversity of experience and the years of interaction with LSC PAI rules give me an intimate understanding of the issues surrounding PAI reporting.

Outline of ABA Presentation

General Observations/Introduction

Private bar is an important partner with LSC in providing services

ABA has encouraged pro bono service through a variety of programs and policy statements

Providing grantees with flexibility will be critical in enabling the programs to develop creative and collaborative approaches for engaging pro bono volunteers

Examples:

Dealing with partner organizations

Addressing intake and priority variations

Finding ways to utilize volunteers in innovative capacities

LSC must take care to avoid providing too much specificity in the revisions

Potential to inhibit new approaches essential for increasing pro bono opportunities

Topic 1: Should resources spent supervising and training law students, law graduates, deferred associates, and others be counted toward grantees' PAI obligations, especially in “incubator” initiatives?

Law Students, Law Graduates, Deferred Associates and Others

Law students, law graduates, deferred associates and others play an important role in assisting to provide legal services to the poor - to conduct intake interviews, gather documents, engage in research, and draft documents such as simple wills and pleadings

Budget cuts have forced programs to reduce staff - the ability to utilize these volunteers has been of enormous benefit

LSC recipients benefit in less tangible ways - many of law students, law graduates and deferred associates will become dedicated pro bono attorneys through exposure they receive to the critical legal needs of the poor; some will become leaders within the legal community and will become strong advocates on behalf of the program.

Utilizing these volunteers requires a substantial dedication of time and resources by the LSC recipients.

The interpretation of the PAI rule in External Opinion #EX-2005-1001 had a negative impact on the willingness of some programs to fully utilize volunteers

The ABA believes LSC recipients should be able to receive PAI credit for training and supervising these volunteers.

“Incubator” Initiatives

As a result of recent retrenchment in the legal industry, some law schools and bar associations have created incubator programs to assist new attorneys in establishing their practices. Some LSC recipients have been asked by law schools or bar associations to become a partner in these efforts.

Under Advisory Opinion # AO- 2009-1007, any attorney participating in an incubator program who earns more than one half of his or her professional salary from a recipient is considered a “staff attorney” under 45 CFR Part 1600. Pursuant to 45 CFR 1614.1(e), the recipient is not permitted to count as PAI any payment made to an attorney who is considered a staff attorney for two years after the attorney no longer serves in that capacity with the recipient.

New attorneys who are just beginning a practice will not know if more than 50% of their income in the first year or two will come from the LSC recipient through the referral of clients. And even if they did, the best policy would be to make an exception to the current restriction at least for lawyers who interned through an incubator program with an LSC grantee.

The ABA recommends that the PAI Rule be amended to permit LSC recipients to receive PAI credit when they refer cases on contract to attorneys who are participating in incubator programs affiliated with the recipients, even if those contracts represent more than 50% of an attorney’s income in the first two years of practice. This will make maximum use of needed and available resources within the spirit of the PAI rule.

Topic 2: Should grantees be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients?

There are several models of integrated intake and referral systems utilized by LSC recipients. Pro bono programs and volunteers that participate in integrated screening and referral systems benefit by receiving carefully screened cases, saving both time and resources.

LSC has encouraged its grantees to collaborate with pro bono programs and to integrate them fully into the statewide delivery system. Integrated intake and referral systems are an excellent example of how grantees have heeded that call.

Advisory Opinion #AO 2011-001 set forth an interpretation of Part 1614 that severely inhibits LSC recipients from participating in such systems, because they cannot count towards PAI the value of the time spent in intake, screening and referral of LSC-eligible clients unless they counted the case as their own and engaged in oversight and follow-up.

Oversight and follow-up on cases referred to pro bono attorneys is essential for quality assurance, but that is not a function that has to be carried out by the LSC recipient.

The ABA supports an interpretation of 45 CFR 1614 or its amendment, if necessary, to enable LSC recipients to count towards their PAI spending requirement the time spent to: create an integrated intake and referral system; conduct intake; screen callers; and refer eligible clients to private attorneys regardless of whether the recipient considers the case to be its own or provides oversight or follow-up to the volunteer attorney who accepts it.

Topic 3: Should LSC reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements?

There are a wide range of brief service approaches that have been developed over the past few years that use volunteer lawyers.

Many are sponsored by bar associations, community groups or the local courts.

Some focus on a specific group such as veterans or battered spouses

Others focus on a specific area of the law such as divorces or evictions.

Many are held in locations that are convenient for clients such as community centers, schools or churches, as well as at times (evenings and weekends) that respond to the needs of working people

These approaches can be popular with volunteer lawyers because they may limit the scope of work and time commitment required.

LSC grantees often play an important roles in assuring the success of these brief service approaches; this enables LSC grantees to work collaboratively with the bar, the courts and community groups to extend needed legal help

To the extent that eligible clients are being assisted through such approaches, LSC grantees should receive PAI credit for any support they provide

Because these approaches sometimes do not include client eligibility screening, the question of PAI credit becomes much more complex. We want to participate in discussions as a part of these regulatory workshops to see if we can collaborate on developing reasonable approaches that do not run afoul of the purpose or letter of the law governing LSC.

Name	Lisa Wood, Chair, ABA Standing Committee on Legal Aid and Indigent Defendants
Topic 1: LSC Pro Bono Task Force Recommendation 2(a) - Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives.	
X	How are legal service providers engaging new categories of volunteers? What are the needs of these new categories of volunteers?
X	What are the obstacles to LSC grant recipients' full use of these volunteers?
X	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the supervision and training of these volunteers?
	How can LSC ensure against fraud, waste, or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
	To the extent applicable, discuss how any approaches you recommend might be implemented.
X	Other issues related to Topic 1 (please specify in your submitted outline).
Topic 2: LSC Pro Bono Task Force Recommendation 2(b) - Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.	
X	How are recipients currently using integrated intake and referral systems?
X	Do LSC's current PAI regulations inhibit full use of integrated intake and referral systems?
X	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to create and staff integrated intake and referral systems?
	How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
	To the extent applicable, discuss your organization's ability to execute any recommended approaches.
X	Other issues related to Topic 2 (please specify in your submitted outline).
Topic 3: LSC Pro Bono Task Force Recommendation 2(c) - LSC should reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.	
X	How are recipients currently using or supporting pro bono volunteers in brief service clinics?
	What are the obstacles to recipients' use of pro bono volunteers in brief service clinics?
X	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics?
	If LSC were to allow recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics under circumstances where the users of the clinics are not screened for LSC eligibility or accepted as clients of the recipient, how could that change be implemented in a manner that ensures compliance with legal restrictions on recipients' activities and uses of LSC funds?
	How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
	To the extent applicable, discuss your organization's ability to execute any recommended approaches.
	Other issues related to Topic 3 (please specify in your submitted outline).

Lisa Wood
Bio and Qualifications

Lisa is the Chair of the ABA Standing Committee on Legal Aid and Indigent Defendants, having served in that post since 2012. She previously served 2 years as a member of the Committee.

Lisa is a partner and Chair of the Litigation Department at Foley Hoag LLP in Boston, where she handles complex litigation matters involving accounting, securities and antitrust issues. Throughout her 29 years of practice, Lisa has been active in access to justice issues. Lisa served as a member of LSC's Pro Bono Task Force. Lisa served as Chair of the Massachusetts IOLTA Committee for the past 6 years, and served as a member of that Committee for four years previous to that. She has served as a Trustee and Grant Committee Member of the Boston Bar Foundation, one of the charities to whom the Massachusetts IOLTA Committee disburses funds for grant making purposes. Lisa has also served on the Board of the Volunteer Lawyers Project for 25 years, including three years as its Chair. VLP is currently the largest LSC recipient in Massachusetts, and was one of the first organized pro bono programs in the United States (funded in its early years by an ABA start-up grant). Lisa has also been active in access to justice issues through the local chapter of NCCJ and the Boston Bar Association.

Lisa has served in the Leadership of the ABA's Sections of Litigation and Antitrust for more than 15 years. She currently pens a regular column in the Antitrust Section's Magazine called, "Notes from the Field" which addresses practical litigation issues. For the Litigation Section, Lisa has focused her leadership efforts on access to justice issues, previously chairing the Section's Access to Justice and Pro Bono and Public Interest Committees, and serving as a Litigation Section liaison to the ABA Civil Right to Counsel Working Group. Early in her Section leadership years, Lisa founded and oversaw the Section's annual in-house counsel pro bono award.

Foley Hoag has an exemplary pro bono program of which Lisa is very proud. Lisa has focused her pro bono case work on child abuse cases involving special needs children.

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June 21, 2013

Mr. Mark Freedman
Senior Assistant General Counsel
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Via e-mail to: PAIRULEMAKING@lsc.gov

Re: Comments on Revising the LSC Private Attorney Involvement (PAI) Rule,
45 CFR Part 1614

Dear Mr. Freedman:

The American Bar Association, through its Standing Committee on Legal Aid and Indigent Defendants (SCLAID) and with substantial input from its Standing Committee on Pro Bono and Public Service (Pro Bono Committee), submits these comments regarding possible revisions to the Legal Services Corporation's (LSC) PAI requirement.

In addition to its longstanding support for ongoing federal funding of LSC, the ABA has a strong commitment to and keen interest in the full and robust involvement of the private bar in the delivery of legal services to the poor. While recognizing that pro bono volunteers can never replace the vital services provided by LSC grantees, the ABA views the private bar as an important partner with LSC in providing much needed services to those who cannot otherwise afford legal assistance.

The ABA has encouraged pro bono service through a variety of programs and policy statements for more than a century. The ABA Canons of Professional Ethics, adopted in 1908, as well as the ABA Model Code of Professional Conduct, adopted in 1969 both addressed the issue.¹ The ABA Private Bar Involvement Project (now known as the Center for Pro Bono) was established in 1979 to assist with the creation and development of pro bono programs.

In more recent times, the ABA adopted Model Rule of Professional Conduct 6.1 in 1983, which urged lawyers to "render public interest legal services." In 1993,

¹ Canon 4 of the ABA Canons of Professional Ethics provided that "a lawyer assigned as counsel for an indigent prisoner ought not to ask to be excused for any trivial reason and should always exert his best efforts on his behalf." EC2-25 of the Model Code of Professional Conduct stated that the "basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer.... Every lawyer, regardless of professional prominence or professional work load, should find time to participate in serving the disadvantaged."

the ABA amended MRPC 6.1 to define pro bono in a multi-tiered and prioritized way, placing emphasis on the representation of low income people with no cost to the client.

The ABA has also been at the forefront of establishing criteria for effective pro bono programs. In 1996, the ABA adopted *Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means (Pro Bono Standards)* to provide guidance regarding the most effective and efficient ways for pro bono programs to operate. The ABA is in the process now of revising the *Pro Bono Standards*, and the revised version is scheduled to be considered by the ABA House of Delegates at its Annual Meeting in August.

Several compelling reasons led to the revision of the *Pro Bono Standards* including new forms of delivery of pro bono legal services that were not prevalent in 1996, such as limited scope representation, assisted pro se models, and neighborhood and court-based clinics. In addition, the use and availability of technology by pro bono programs have grown exponentially since the adoption of the original *Standards*. Furthermore, as pro bono has become increasingly integrated into access to justice and legal aid initiatives, the need to provide adequate resources and infrastructure to support pro bono activities has expanded. Some of these same factors are no doubt influencing LSC's decision to consider amending its PAI Rule at this time.

As LSC moves forward with this process, providing its grantees with flexibility will be critical in enabling the programs to develop effective approaches for engaging more pro bono volunteers. As a result, LSC must take care to avoid providing too much specificity in the revisions. Otherwise, there is the potential to inhibit new approaches that may be developed in the future, thereby stifling the creativity and collaboration that is essential for increasing pro bono opportunities for volunteers.

Below are the ABA's comments on the specific topics regarding the PAI Rule for which LSC requested input in the Federal Register Notice of May 10, 2013:

Topic 1: Should resources spent supervising and training law students, law graduates, deferred associates, and others be counted toward grantees' PAI obligations, especially in "incubator" initiatives?

Response: The ABA, for the reasons stated below, recommends that the resources spent by LSC grantees supervising and training law students, law graduates and deferred associates be counted towards fulfilling the PAI requirements. In addition, the ABA recommends for the reasons stated below that the PAI Rule be amended to permit LSC recipients to receive PAI credit when they refer cases on contract to attorneys who are participating in incubator programs affiliated with the recipients, even if those contracts represent more than 50% of an attorney's income in the first two years of practice.

A. Law Students, Law Graduates, and Deferred Associates

Law students, law graduates, and deferred associates play an important role in assisting LSC funded programs to provide legal services to the poor. LSC recipients have utilized these groups of volunteers in a variety of ways including to conduct intake interviews, gather documents,

engage in research, and draft documents such as simple wills and pleadings. Given that a number of programs have had to reduce staff due to cuts in LSC and other funding sources, the ability to utilize these volunteers has been of enormous benefit to those programs.

LSC recipients benefit from the use of these volunteers in other, less tangible ways, as well. Due to the exposure that the law students, law graduates, and deferred associates receive to the critical legal needs of the poor, as well as to the excellent service provided by the LSC program's staff, many will become dedicated pro bono attorneys with the program, as well as financial supporters, once they are engaged in private practice. In addition, some will become leaders within the legal community and the community at large and based on their experience will become strong advocates on behalf of the program.

Utilizing these volunteers is not without a substantial dedication of time and resources by the LSC recipients. The volunteers require training in a wide range of areas including client interview skills, substantive areas of the law, and the workings of various governmental agencies with which clients interact. These volunteers also need to be closely supervised so that there is no doubt that clients are receiving the high level of service they deserve.

Currently, as interpreted by External Opinion #EX-2005-1001, the PAI Rule does not permit the time spent by program staff training or supervising law students or law graduates who are not yet members of the bar to count towards LSC grantees' PAI requirements. This interpretation has had a negative impact on the willingness of some programs to utilize these categories of volunteers. Given the time and effort that is needed to fully utilize law students, law graduates, and deferred associates, as well as their potential to become long term volunteers and supporters of LSC programs, the ABA believes LSC recipients should be able to receive PAI credit for training and supervising these volunteers.²

We recognize that the term private "attorney" is used in the title and throughout 45 CFR Part 1614. While not defined in that regulation, 45 CFR 1600.1 states that "[a]ttorney means a person who provides legal assistance to eligible clients and who is authorized to practice law in the jurisdiction where the assistance is rendered." As a result, it likely will be necessary for LSC to change the name of the rule and the terminology used throughout or otherwise amend its regulations to enable law students, law graduates, deferred associates, and other volunteers to be included. The ABA urges LSC to use whatever terminology it deems appropriate to ensure that grantees can count these groups of volunteers towards fulfilling the PAI requirement.

B. "Incubator" Initiatives

It is well known that as a result of the financial crisis of 2008, many law firms cut back substantially on new hires. Many newly admitted attorneys found themselves without employment and decided to start a solo practice, but lacked the practice skills or substantive expertise needed to do so successfully. Recognizing the needs of these new attorneys, some law schools and bar associations have created incubator programs to assist these attorneys in

² For many of the same reasons outlined above, the ABA recommends that LSC recipients receive PAI credit for training and supervising other categories of volunteers including paralegals and in-house counsel licensed to practice in another jurisdiction.

establishing their practices. In some cases, LSC recipients have been asked by law schools or bar associations in their areas to become a partner in these efforts.

Under Advisory Opinion # AO- 2009-1007, any attorney participating in an incubator program who earns more than one half of his or her professional salary from a recipient is considered a “staff attorney” under 45 CFR Part 1600. Pursuant to 45 CFR 1614.1(e), the recipient is not permitted to count as PAI any payment made to an attorney who is considered a staff attorney for two years after the attorney no longer serves in that capacity with the recipient.³

New attorneys who are just beginning a practice will not know if more than 50% of their income in the first year or two will come from the LSC recipient through the referral of clients. And even if they did, the best policy would be to make an exception to the current restriction at least for lawyers who interned through an incubator program with an LSC grantee. They have been trained specifically in issues of poverty law and are committed to serving the low income community. Few members of the private bar are thus better positioned to provide needed services to the clients that LSC recipients will be referring on a low-fee contract basis.⁴ As a result, the ABA recommends that the PAI Rule be amended to permit LSC recipients to receive PAI credit when they refer cases on contract to attorneys who are participating in incubator programs affiliated with the recipients, even if those contracts represent more than 50% of an attorney’s income in the first two years of practice.

Topic 2: Should grantees be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients?

Response: The ABA, for the reasons stated below, fully supports an interpretation of 45 CFR 1614 or its amendment, if necessary, to enable LSC recipients to count towards their PAI spending requirement the time spent to: create an integrated intake and referral system; conduct intake; screen callers; and refer eligible clients to private attorneys, regardless of whether the recipient considers the case to be its own or provides oversight and follow-up to the volunteer attorney who accepts it.

There are several models of integrated intake and referral systems utilized by LSC recipients. In some geographical areas (cities, counties, or states) there is one number that is called by anyone seeking free legal services. Staff screen the calls for income and other eligibility criteria, obtain pertinent facts and then determine to which legal aid or pro bono program the case should be referred. In some cases, this type of intake system also includes brief advice for those eligible

³ Under the envisioned incubator program that was the subject of # AO 2009-1007, new attorneys would serve three or four internships for the LSC recipient for which they would be paid. Following that period of employment with the recipient, the attorneys might have other internships with other organizations. Once the internships were completed, the attorneys were expected to establish an independent private practice providing legal services to low income persons in the community. During the following internships and once the practice was established, the recipient wanted to be able to refer eligible clients to the attorneys for which the attorneys would be paid a low fee and the LSC recipient would count those towards the PAI requirement.

⁴ The same logic applies to former LSC staff attorneys who leave the program to begin a private practice. As a result, the ABA recommends that as LSC reviews the entire PAI Rule, it consider eliminating the policy set forth in 45 CFR 1416(e).

clients for whom brief services suffice. Another integrated intake and referral system is one that is specific to a given LSC recipient. In that case, the LSC recipient conducts intake and screening and then determines if the eligible client matter is one that should remain in-house or be referred to the pro bono volunteer lawyer program in the service area. In either type of integrated screening and referral system, pro bono programs and the volunteer lawyers that participate in them benefit by receiving carefully screened cases, saving both time and resources.

LSC has encouraged its grantees to collaborate with pro bono programs and to integrate them fully into the statewide delivery system. Integrated intake and referral systems are an excellent example of how grantees have heeded that call. However, given the views expressed in Advisory Opinion #AO 2011-001, some LSC recipients likely will reconsider the value of expending their resources on these systems, and others that may have considered taking part may reconsider participating. This is the case because under that opinion, recipients cannot count towards PAI the value of the time spent in intake, screening, and referral of LSC-eligible clients unless they counted the case as their own and engaged in oversight and follow-up.

In a memorandum to Victor Fortuno dated July 14, 2011, Robert Stein and A. Michael Pratt, the then chairs of SCLAID and the Pro Bono Committee, respectively, requested that the opinion be withdrawn because it "... misrepresents 45 CFR 1614, makes broad statements that are likely to be misread, and inappropriately relies upon poorly conceived and otherwise unarticulated policy. The overall impact of the opinion will be to discourage and impede the delivery of pro bono legal services by pro bono lawyers, at a time when Congress and others are calling for an increase in such services." The memo contains a detailed analysis of the problems with the opinion and why it should be withdrawn. A copy of the memorandum is attached.

There is no doubt that providing oversight and follow-up on cases referred to pro bono attorneys is valuable for quality assurance purposes, but that is not a function that has to be carried out by the LSC recipient. The ABA believes that most pro bono programs that refer cases to members of the private bar engage in these practices, as recommended in the *Pro Bono Standards*. Specifically, *Pro Bono Standard 4.5-Tracking and Oversight* provides that "A pro bono program should establish a system for obtaining information regarding the progress of matters placed with volunteers. Based upon the information received, the program should provide the assistance required, subject to any limitations imposed by rules of professional conduct."⁵

The ABA fully supports an interpretation of 45 CFR 1614 or its amendment, if necessary, to enable LSC recipients to count towards their PAI spending requirement the time spent to: create an integrated intake and referral system; conduct intake; screen callers; and refer eligible clients to private attorneys. That is our position regardless of whether the recipient considers the case to be its own or provides oversight or follow-up to the volunteer attorney who accepts it.

⁵ *Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means*, American Bar Association (1996).

Topic 3: Should LSC reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements?

Response: The ABA recommends that LSC re-examine said rule, as currently interpreted, but recognizes this topic involves nuances and requires more detailed analysis as set forth below.

Our response to Topic 2 above also contains our response to the question posed by this topic as it pertains to integrated intake and referral systems in which eligible clients are referred to pro bono programs. However, based upon the items for discussion listed under this topic in the Federal Register Notice of May 10, 2013, it appears that the emphasis here is on brief service clinics, which will be discussed below.

There are a wide range of brief service clinics that have been developed over the past few years that are sponsored by bar associations, community groups, or the local courts. Some focus on a specific group such as veterans or battered spouses; others focus on a specific area of the law such as divorces or evictions. Many are held in locations that are convenient for clients such as community centers, schools or churches, as well as at times (evenings and weekends) that respond to the needs of working people.

These clinics are often popular with lawyers because they are for a discrete period of time (an evening or an afternoon) and a discrete matter. In addition, some of the clinics focus in an area of the law that lawyers have expertise in, such as wills or divorce, rather than an area of the law for which specialized knowledge of poverty law is required.

A number of LSC grantees have played important roles in assuring the success of these brief service clinics in a variety of ways including taking part in the clinic's development, providing training of staff and volunteer lawyers who staff them and being available for consultations onsite, as needed. This involvement has enabled LSC grantees to work collaboratively with the bar, the courts and community groups to extend needed legal help to those who cannot otherwise afford it.

The ABA believes that to the extent that eligible clients are being assisted at these clinics, LSC grantees should receive PAI credit for any support they provide to the brief service clinics under the same reasoning expressed in response to Issue 2 above. As to permitting LSC recipients to obtain PAI credit for assistance provided to brief service clinics that do not engage in client eligibility screening, the ABA plans to study the issue further and provide comments at a later date. While we are supportive of the development of these clinics and view them as an innovative approach to engaging pro bono lawyers and serving the low-income community, we also recognize the complexities of permitting LSC recipients to count them as PAI, due to a number of considerations, including possible statutory constraints. Hearing the views of others during the Regulatory Workshop to be held in Denver on July 23, 2013, will help to inform the ABA's views, which will be provided to LSC at a later date.

Mr. Mark Freedman

June 21, 2013

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The ABA appreciates the opportunity to present these comments and looks forward to participating in the upcoming Regulatory Workshops at which these issues will be further explored.

Sincerely,



Lisa C. Wood

Attachment

cc: Laurel Bellows, ABA President

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MEMORANDUM

To: Victor M. Fortuno, General Counsel, Legal Services Corporation

Cc: James M. Sandman, President, Legal Services Corporation

From: Robert E. Stein, Chair, ABA Standing Committee on Legal Aid and Indigent Defendants
A. Michael Pratt, Chair, ABA Standing Committee on Pro Bono and Public Service

Re: Advisory Opinion # AO – 2011-001

Date: July 14, 2011

We write on behalf of the ABA Standing Committees on Legal Aid and Indigent Defendants (SCLAID) and on Pro Bono and Public Service (the Pro Bono Committee) to request withdrawal of LSC Office of Legal Affairs Advisory Opinion # AO – 2011-001. We believe that the opinion misinterprets 45 CFR 1614, makes broad statements that are likely to be misread, and inappropriately relies upon poorly conceived and otherwise unarticulated policy. The overall impact of the opinion will be to discourage and impede the delivery of pro bono legal services by private lawyers, at a time when Congress and others are calling for an increase in such services.

At the outset, we want to emphasize that the ABA fully supports an effective, but flexible, system for involving private lawyers in the delivery of legal services to the poor. To achieve this goal, LSC must allow recipients of its funding the ability to innovate and adopt creative approaches. The applicable regulations should be interpreted to permit flexibility in program design, so long as good-faith efforts are made to involve private lawyers with reasonable assurances of quality service for clients.

The situation described in the opinion constitutes a direct delivery system that complies with the regulation, and therefore recipient expenditures in connection with participation in that system are properly included within the recipient's PAI requirement.

The opinion, on page three, describes “a situation in which the recipient participates in a system with a number of volunteer lawyer programs in its service area.” It provides some details of how that system operated. It states that:

“The volunteer lawyer programs to which the recipient refers cases do not necessarily have case acceptance criteria that are consistent with the program’s priorities...The recipient does not consider these applicants as clients accepted for service by the recipient and provides no oversight over the cases, and does not track whether the applicant is ultimately provided any service through the referral. As such, the volunteer lawyer programs to which the recipient makes referrals are 1614 non-compliant direct delivery systems.”

We do not believe that the facts recited are sufficient to establish that the system described is “1614 non compliant.” 45 CFR 1614.3 (a) specifically contemplates that the requirements of the regulation may be met by activities that will be considered “direct delivery” if they are programs “...such as organized *pro bono* plans...and/or organized referral systems.” (emphasis added). Part 1614.3(d) establishes minimum necessary components required for a system to be considered a direct service system, including intake and case acceptance procedures consistent with the recipient’s priorities, and elements necessary to assure quality control and support for private attorney volunteers. Notably, this subsection of the regulation does not require that the recipient itself must provide these components. Nor does it require that the clients referred must be considered clients of the recipient. Clearly, the regulation contemplates that a recipient may participate in a system, and receive PAI credit for the costs of such participation, so long as the system as a whole (both those portions of it undertaken directly by the recipient, and those portions of it that are undertaken by organizations receiving referrals) includes the necessary components.

The facts recited in this opinion merely state that the case intake and acceptance procedures of the volunteer lawyer programs “are not necessarily consistent” with the recipient’s priorities. There is no specific finding that these procedures were inconsistent. And there are no findings that the volunteer lawyer programs fail to meet the other requirements of Part 1614.3(d). Therefore, the bald statement in the advisory opinion that the volunteer lawyer programs are “1614 non-compliant direct delivery systems” is unsupported and should be reconsidered.

Moreover, the implications of this portion of the opinion will have serious consequences for many, many pro bono delivery systems across the nation. The opinion can be read to imply that persons served must be considered clients of the recipient if the recipient is to consider the costs of referring those clients within its PAI requirement.¹ The opinion can also be read to require the recipient to itself conduct all the other quality assurance components set forth in Part 1614.3(d), when this is not in fact required by the regulation and is not practical.² This opinion, by its terms and by the implications it suggests, will put into doubt the regulatory validity of a substantial number of legitimate PAI programs nationwide.

¹ In fact, LSC External Opinion EX-2008-1001 takes exactly this position in a similar context, and we find that aspect of the earlier opinion to be equally troubling and inconsistent with the regulation.

² What is considered a “case” or “client” for purposes of recipient reporting via the CSR system should be differentiated from the requirements of Part 1614.

Alternatively, the recipient's participation in the referral system is a valid activity within Part 1614.3(b), and therefore costs of such participation are properly included within recipient's PAI requirement.

The opinion gives a very narrow and confusing interpretation to Part 1614.3(b) that is inconsistent with the plain language of the regulation and the policy the regulation is designed to achieve. On page 4, the opinion suggests that this subsection does not contemplate any activity that might result in direct client services and that it only authorizes activities similar to "support." We believe that this is an unfortunate and restrictive reading of the regulation that violates both the plain language and purpose of the regulation.

The opinion states that since the word "support" is used in subsections 1614.3 (b)(1) and (2), that word must be intended to be used in connection with all the activities contemplated within 1614.3(b). This is not the case. Principles of regulatory construction do not require that specific words used in subsections must then be read into all portions of the general section of the regulation. The introductory portion of 1614.3(b) specifically says "Activities ... may also include, but are not limited to..." (emphasis added). The construction adopted by the opinion flies in the face of these words, and adopts the view that indeed the activities are "limited to." The preamble to the regulation clearly contemplated a broader approach, stating that "Under new paragraph (b), at the option of recipients, PAI programs may also include support activities and other forms of indirect delivery of service." (emphasis added).

Further, Part 1614.3(b)(2) authorizes PAI credit for "Support...in furtherance of activities undertaken pursuant to this Section including ...technical assistance,...use of recipient facilities..." There is no reason that recipient activity to refer a case to private attorneys could not be considered to be either "technical assistance" or "use of recipient facilities." Also, it can be argued that intake and referral are similar in nature to the other "support" activities described, so may well be considered to be within the activities contemplated by the word "including."

Lastly, the statement in the opinion that subsection (b) "...is not intended to allow for activities beyond a range of non-direct delivery support activities..." is inconsistent with the very examples given in subsections (1) and (2), as many of those examples do involve elements of direct delivery such as research and advice and counsel.

The opinion inappropriately states, and relies upon, an otherwise unarticulated LSC policy that some types of referral activities are not appropriately allocated toward a recipient's PAI requirement.

LSC policy is expressed through its published regulations, as well as through other publicly available written documents such as program letters and board adopted protocols.. We are unaware of a set of additional unwritten policies that may affect the assessment of recipients. To the extent that such policies exist, they are inconsistent with requirements of government transparency and accountability expressed in the Sunshine Act and other sources. If a regulation is extremely unclear or ambiguous, the solution is to engage in public rulemaking to clarify the language and, in the process, to seek input on what the policy determination ought to be. In the

meantime, the language of the regulation should be enforced as written, and not as interpreted based on an otherwise unarticulated LSC “policy” as announced in an advisory opinion by the Office of Legal Affairs, particularly when that policy is inconsistent with the regulatory language and its purpose.

SCLAID and the Pro Bono Committee believe that there are both tangible and intangible benefits that result from the involvement of private attorneys in the work of legal aid programs. The activities of recipients to involve private attorneys must certainly be consistent with the clear requirements of the regulation, and should be in pursuit of the goal of quality service to clients. But local programs and governing boards should be allowed extensive flexibility in designing good-faith approaches to PAI.³ The approach should not be one based on an enforcement ideology that asks “can LSC be assured that such activities” effectuate the regulation. Instead, interpretation of Part 1614 should examine whether an activity that has been conducted in a good-faith effort to involve private attorneys and is consistent with the purposes of the regulation, is permitted by the plain language of the regulation. Moreover, this regulation should not be interpreted and applied in a manner that is inconsistent with its plain language and purpose.

For all the reasons set forth above, we urge that Advisory Opinion # AO – 2011-001 be withdrawn.

Thank you for your consideration.

³ See Part 1614.3(c), stating “The specific methods to be undertaken by a recipient to involve private attorneys in the provision of legal assistance to eligible clients will be determined by the recipient’s taking into account the following factors...” (emphasis added)

Other Public Comments

Public Comments

- Janice Chiaretto, Statewide Legal Services of Connecticut
- Lynda Krupp, Legal Aid and Defender Association, Inc.
- Linda Warren Seely, Memphis Bar Association/Memphis Area Legal Services
- William Tanner, Legal Aid Society of Orange County
- David Udell, National Center for Access to Justice

From: Jan Chiaretto [mailto:JChiaretto@slsct.org]
Sent: Friday, May 24, 2013 10:46 AM
To: PAI Rulemaking
Subject: Comments on PAI rule-making

The topic is vast and well covered . What I have to add may or may not be new , but my concerns are simple to boil down:

1. No new regulation, initiative or aspirational metric (ala the PQV) should involve anything costing an LSC recipient one cent more out of operating costs than the 12.5% already mandated. The additional costs volunteers add to a program's burden have already been discussed.
2. LSC should abandon the uniform 12.5% criteria altogether in favor of another way to encourage LSC programs to engage private bar. Professional legal aid programs are much more efficient to handle the legal needs of poor people on an organized basis. Volunteer professionals have an important place, but not at the expense of operating costs. Legal aid programs need to preserve their basic grant monies to sustain normal operations.
3. No doubt collaborations with the private bar result in many rewards. No need to rehearse them here. I am in favor of LSC developing competitive grant model , not unlike TIG, to encourage thoughtful PAI ventures that can demonstrate impactful results.
4. I would hope that any new grant initiatives involving PAI might be of interest to lawmakers . LSC may buy political good will serving to improve the likelihood of better funding or at least "new money" that can be devoted to PAI, again like TIG.

Thanks for asking!

Janice J. Chiaretto

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TO: Mark Freedman, Senior Assistant General Counsel, Legal Services Corporation

FROM: Legal Aid and Defender Association, Inc.

DATE: June 25, 2013

SUBJECT: Comments Re: LSC Proposed Rulemaking for the PAI Regulation 45 CFR 1614

We offer these comments on behalf of the Legal Aid and Defender Association which provides civil and state and federal criminal defender legal services in the Metropolitan Detroit area.

We support and encourage adoption of Recommendation 2 of LSC's Pro Bono Task Force that Congress create and separately fund a Pro Bono Innovation/Incubation Fund. We see separate funding as necessary so that scarce resources are not drawn from other critically needed programs.

We emphasize that pro bono programs must be staffed and resourced at a level that insures appropriate support for pro bono attorneys. This support should always include appropriate screening of pro bono cases and planning of pro bono projects as well training, support materials and mentoring.

We welcome the Task Force Report's recognition that all pro bono work requires substantial funding for infrastructure investments to support pro bono volunteers. The level of pro bono involvement is directly related to the level of infrastructure investment. Without additional funding we cannot increase and appropriately leverage the full involvement of the private bar so we can begin to achieve access to justice for our clients.

We also support changes to allow LSC grantees to count work done by law students and law graduates as pro bono work. It is clear that projects designed to engage law students result in increased pro bono work as these law students become lawyers. However, it is difficult to channel scarce resources into pro bono projects for law students if those activities do not count in the pro bono case count monitored by LSC.

If these activities are supported by new PAI funding, LAD supports using PAI resources to increase screening, advice and referral programs by pro bono volunteers and staff supervision of pro bono volunteers in new incubator/innovation projects. LAD supports changes to allow grantees to count matters toward PAI requirements.



ACCESS TO JUSTICE

A COMMITTEE OF THE MEMPHIS BAR ASSOCIATION

These comments are submitted to the Legal Services Rulemaking Committee by Linda Warren Seely, President, Memphis Bar Association, Member of the House of Delegates for the Tennessee Bar Association, Member of the Tennessee Bar Association Access to Justice Committee, Member of the Memphis Bar Association Access to Justice Committee, Member of the Subcommittee on Faith Based Initiatives for the Tennessee Supreme Court Access to Justice Commission and Director of Pro Bono Projects for Memphis Area Legal Services.

TOPIC ONE:

How are legal services providers engaging new categories of volunteers? What are the needs of these new categories of volunteers?

One of the more exciting developments over the past 10 years has been the increase in the number of Bar Association and Court related Access to Justice or Pro Bono committees, taskforces and commissions. In my experience at the state and local levels, a broad range and category of new volunteers have made their way onto these committees, taskforces and commissions. From the Memphis Bar Association's Access to Justice committees inception paralegals (from private firms all the way to the Sheriff's department), social workers (from the Veterans Administration), law students, other agency service providers, judges, clerks and law professors have been welcomed as key stakeholders in the development of innovative programs and projects in the delivery of legal services in Memphis.

One project I will mention of the Memphis Bar Association and Memphis Area Legal Services is our monthly Saturday Legal Clinic. We began on the second Saturday of November in 2008 at a church, First Baptist Church on Broadway, in a lower income part of Memphis. We began with a handful of volunteer attorneys and a number of the church congregants who came out to feed us and ply us with coffee. Although we didn't have huge numbers of applicants, we had such a great volunteer turnout that we did it again, this time at a different church in a different part of Memphis. As we began to grow, we added a paralegal volunteer component, then law students started coming. Mediators wanted to offer their services and we split them off to serve weekly at our General Sessions Courts and used social work graduate students to coordinate their sessions. The clinic expanded significantly after the then Chair of the MBA Access to Justice Committee and MALS staff met with staff from the Memphis and Shelby County Library system to partner on a more permanent community venue for our clinic. The main library location in Memphis is a large, spacious building with 3 community rooms available for non-profits to use*

free of charge. The main library has a large parking lot and sits on the main bus line. As of 2013, we have institutionalized our Saturday Legal Clinic. We are open from 10 am until about 1 pm the second Saturday of each month at the main library in Memphis. Each month a different firm or corporate legal department or bar association acts as the event sponsor; in June the Ben F. Jones chapter of the National Bar Association served as the sponsor. The sponsor's job is to make sure there are at least 20 volunteer attorneys available at the clinic. We have paralegals and administrative assistants who regularly staff the clinic providing much needed and valuable coordination for the applicants, making sure forms are completed and kept in some order. Volunteer law students and students in the local paralegal studies programs often come to volunteer and will be assigned to work with one of the volunteer attorneys providing forms and internet research, helping the attorneys complete documents and other related tasks. A local investment group, the Marston Group and a local bank, Bank Tennessee, send over coffee and treats for the volunteers.

We encourage churches to also sponsor these clinics and sometimes we go into Senior Centers and other community centers to provide clinic operations.

Memphis Area Legal Services has volunteers and externs from law schools and paralegal schools and undergraduate schools. We have used social worker volunteers, community volunteers, retired lawyers and just about anyone who calls and says, "I want to help". They staff clinics, help applicants with forms, do research, make community education materials or packets, provide in house clerical help, represent clients, attend hearings, write newsletter articles; if it's something our community or clients need, we count on volunteers to help. We have office space available for volunteer attorneys who don't have an office- mothers with small children or attorneys who cannot find a job but want to contribute- and give them cases to handle.

The volunteers, all of them regardless of whether or not they are attorneys, need access to office space, a place to work if you will, they need to know we value their contributions through recognition events and awards, they need appropriate equipment including access to computers, the internet, copiers, fax machines, file folders, pens, paper to name a few items, and they need a sense that they are contributing to a cause greater than themselves.

What are the obstacles to full use of these volunteers?

The only volunteers we get to count for LSC purposes are the ones who are attorneys. Only cases handled by an attorney, a fully licensed attorney, are considered important enough to be included in our CSR reports. Memphis Area Legal Services has an ongoing relationship with the Cecil C. Humphreys School of Law, which is located in a newly renovated building, two blocks from our office. The law school offers clinical courses to the students and all of the 'cases' they handle are through MALS. The students are provided with a third year provisional law license and are supervised by attorney-clinical instructors. Unfortunately, only the hours provided by the attorney-clinical instructors are counted. None of the hours donated by the provisionally licensed lawyer-students count for those of us with LSC funding towards our LSC mandated PAI requirement. The law school has implemented a mandatory pro bono requirement for graduation and we would like to be able to take full advantage of this new development.

We have a number of paralegals who represent individuals at social security disability hearings, which is permitted by the Social Security Administration provided the paralegals pass certain testing requirements. We are not able to make use of cases handled by these paralegals as they don't 'count' as lawyers.

None of the work done by many of our volunteers is countable towards our PAI obligation because they aren't lawyers. This can be a huge disincentive to working with these nonlawyer volunteers for our agency. It's hard to understand why LSC encourages and even demands these relationships but won't let us count as part of our PAI requirement cases handled by provisionally licensed lawyer students directly supervised by our staff or paralegals authorized to practice in certain administrative tribunals or even mediators who are frequently licensed attorneys.

Should LSC implement regulations to allow PAI credit for training and supervision of these volunteers?

Yes, LSC funded agencies should be permitted a little more latitude with regard to the types of volunteers, cases and services provided by non-attorneys that count toward the PAI requirement.

Ensuring against fraud or waste and/or unintended consequences.

As for concerns in this regard, it might be helpful to fund some pilot programs to see what if any problems or unintended consequences arise. I will note, however, that there are plenty of legal aid type agencies that eschew LSC funding and have been very successful at growing their service delivery model and providing excellent services in their communities. It might be helpful to conduct a review of these agencies and model services after those programs.

*Please note that this particular description encompasses a description of how we handle advice and counsel/brief service clinics. All of the applicants are screened for eligibility and sufficient information is obtained from them to properly open a file consistent with LSC requirements including signing of Citizenship Attestations and limited scope retainer agreements. However, at a recent Tennessee Supreme Court Access to Justice Commission conference in Tennessee designed to encourage churches and bar associations to sponsor clinics, the point was made repeatedly that partnering with an LSC funded agency is a huge problem for the bar associations and churches because of regulatory compliance issues. The speaker indicated that LSC funded agencies were unnecessary to the success of these clinics, that LSC requirements inhibited applicants from coming because of the paperwork burden and was an unwelcome intrusion by the private attorneys. He encouraged those present to eschew a partnership with LSC funded entities to avoid these difficulties. The speaker in this instance is a well known attorney in the Access to Justice arena having served as the Chair of the Tennessee Bar Access to Justice committee.

I. Background

The LSC PAI requirement stipulates that “a substantial amount of funds be made available to encourage the involvement of private attorneys in the delivery of legal assistance.” **1614.2(a)**. The purpose and mission of the PAI requirement is “to generate the most possible legal services for eligible clients from available, but limited, resources” **1614.1(c)**. According to the LSC Pro Bono Task Force, engaging students and instilling a lasting commitment to pro bono work is wholly consistent with the aims of the PAI regulation.” **LSC Pro Bono Task Force Recommendation 2, PAI Revision, Topic 1** (pg. 20 of report)

II. New Categories of Volunteers that Can Be Engaged by Legal Service Providers and How Public Interest Organizations Can Meet These Volunteer Needs

A growing number of law students, recent graduates, and new attorneys are in need of opportunities to gain real-world legal experience and skills. This is due to increasing competition in the legal field, where firms and legal organizations desire future hires that already possess some practical skills. Also, a substantial proportion of graduates decide to become solo practitioners, and do so without any support system or post graduate training; instead they rely only on what they learned in law school. Most often, law schools do not offer students opportunities to be exposed to actual cases that would allow them to gain practical skills for the legal job market.

These law students, recent graduates, and new attorneys can turn to public interest organizations to gain real-world experience working with clients and cases. Public interest organizations provide an opportunity to meet with clients, appear in front of a judge, manage a caseload, and apply practical skills they will be required to use in their job or solo practice. Through incubator programs, students can continue working for a public interest organization after graduating, and even as they begin to establish their own solo practices.

Incubator programs can meet the specific needs of each new category of volunteers. Students need exposure to different areas of law during their education and to gain experience in areas where they may choose to practice. Training at a public interest organization provides students with exposure to many areas of law, including family and bankruptcy law, as well as housing, consumer, and government benefits issues.

Prior to passing the Bar, graduates need a job, but public interest organizations are reticent to hire students who have not passed the Bar. Incubators allow for students who wish to pursue a career in public interest to work at public interest organizations and not feel pressured to find a job at a firm strictly for financial reasons.

Future solo practitioners need the requisite skills to effectively execute the practice of law. Since these new attorneys often seek to establish their solo practice immediately upon graduation, in order to gain clients and bill for income, it is not economically feasible for them to undergo volunteer training to obtain these needed skills. An incubator, with paid positions, provides new attorneys with practical training and mentors to help them develop their skills as they concurrently establish their solo practice.

III. The Current Obstacles to LSC Grant Recipients’ Full Use of These Volunteers

Under the current PIA scheme, there are a number of obstacles that restrict public service organizations from fully using the aforementioned groups of volunteers. For example, public service organizations currently lack a competitive edge in attracting and retaining volunteers. Law students face debt upon graduation and many cannot go without an income. Paid positions during summer for current students and/or new graduates will attract many more highly competent law students to public

interest organizations. Increasing the amount of highly competent law student volunteers will increase the amount of people legal aid organizations are able to help.

Additionally, the current structure of PAI only allows funding for attorneys, so long as it does not comprise more than fifty percent of their total income. This creates a high level of uncertainty, as it is hard to predict one's annual income, and the income ratio of a volunteer attorney is not accounted for until the end of the year. As a result, public interest organizations may be reticent to give a volunteer attorney more cases if they believe they are close to providing the attorney with more than fifty percent of their income. Restricting the use of PAI funds to volunteers means fewer legal services will be provided to the low income individuals.

Further, volunteer attorneys serve as the mentors who train law students to their full potential. Limiting work done by volunteer attorneys for fear of exceeding the fifty percent threshold will also limit mentoring resources for law students. Proponents of incubators believe that the only thing standing between "public-interest-minded" law students who want to serve low-income communities is "a lack of proper training opportunities." (*"Law school incubators and training firms: Reviving the apprenticeship model in the legal profession."* October 12, 2012. [http://lawschooldisrupt.com/2012/10/02/799/.](http://lawschooldisrupt.com/2012/10/02/799/))

IV. Reasons Why LSC Should Implement Conditions and Guidelines Allowing LSC Recipients to Claim PAI Credit for Supervision and Training of These Volunteers

Providing more resources to law students and new attorneys interested in public interest will not only encourage more private attorney involvement, but most likely recruit more attorneys to a public interest career.

For example, deferred associate programs are becoming more common, and many of these deferred associates find they prefer their public interest jobs. (*Ferguson, Russ. American Spectator, "After the Crash."* February 15, 2010. <http://spectator.org/archives/2010/02/15/after-the-crash>.) Providing more resources to these deferred associates increases the likelihood that they will continue to assist LSC recipients even when they return to their firm. These deferred associates are also the spokespersons for the legal aid society at their firms. Their positive experience, especially in an incubator setting, will incite an interest in public service for other attorneys at their firm.

Further, proper and in-depth training of law students allows them to perform duties the attorneys would be tasked with if the students were unable. As a result, the attorneys are able to spend more time helping clients, providing them with legal advice and representing them in court.

V. Incubators are Deserving of PAI Funds

Incubators can be effectively utilized to deliver legal service to low-income individuals. In fact, the majority of incubator programs in the country contain an access to justice component in their incubator model. Most incubators require their participants to commit a certain number of hours or cases to pro or low bono work. Many incubators' purpose is specifically to serve the low-to-moderate income communities.

For example, PILI is an incubator program in Chicago with a stated mission to cultivate a commitment to public interest and pro bono service. Their vision is a community of law students and lawyers at different stages in their career engaged in public interest, where they remain committed serving the legal needs of the underserved. CUNY's Community Legal Resource Network and Incubator for Justice prepares students for embarking on their own solo practice by teaching them necessary business skills. The program mentors and teaches the students to provide for successful businesses and individual justice missions. Participants must complete 12 hours a month of low bono work. California Western School of Law modeled their program after CUNY. The incubator is specifically for new

graduates seeking to start their own solo practice or small firm that represents the poor. The Chicago Bar is also setting up an incubator that targets students wanting to establish a community practice that serves low-to-moderate income residents.

Further, incubators encourage private attorney involvement with public interest organizations. Law students and new attorneys participating in public interest incubators tend to enjoy the work performed in the incubator that they remain committed to serving the unrepresented. These participants are more likely to continue serving in a community-based practice after the incubator. After an incubator, an attorney can establish their own solo practice or join a small firm, but with a greater likelihood that they will continue to volunteer with an LSC recipient because they committed themselves to public interest work.

Incubators thoroughly train students and new attorneys to provide highly competent assistance to pro bono organizations and their clients. More students are “hanging out their own shingles” upon graduation, but lack the proper skills. Incubators create transferable skills to community-based practices that students would not obtain at a firm. It is easier for students to go from an incubator to a community-based practice than from a firm because they learn different skills at firms and at times must unlearn those skills to succeed in a public interest setting. (*“Law school incubators and training firms: Reviving the apprenticeship model in the legal profession.”*)

IV. How LSC Can Ensure against fraud, waste or abuse related to implementing this recommendation?

1. Concern: Too many PAI funds will go toward law student hours and not private attorneys.
 - Resolution 1: Create a required proportion of number of law students to attorneys, where the number of law students cannot exceed a certain ratio.
 - Resolution 2: Designate a maximum percentage of PAI funds being attributed to law student and deferred associate efforts. This is not a required percentage, only a cap.
2. Concern: Legal Aid staff attorneys being let go for purposes of counting their volunteer efforts toward PAI funding.
 - Resolution: If a staff attorney leaves an organization, time accrued within two years after their leave can be counted toward PAI in only certain volunteer circumstances, particularly for incubators. If they serve as law student supervisors or incubator mentors, they will create monthly or quarterly reports about their performed responsibilities. Any duties performed in incubator or clinic settings can be attributed to PAI funds.
3. Concern: An attorney earning 51+% of their income from an LSC recipient.
 - Resolution: For attorneys seeking employment, or in the process of establishing solo practice, LSC recipients should be able to credit their time to PAI funds if the attorneys are actively applying to jobs or making regular steps toward setting up their practice. An attorney can document, monthly or quarterly, their employment activity. Even if they earn more than 50% of their income by the LSC recipient, the LSC can still claim PAI funds through their activity because they can prove they do not consider themselves staff attorneys.

NATIONAL
CENTER FOR
ACCESS TO
JUSTICE
at Cardozo Law School

“Thou Shalt Not Ration Justice”
– Hon. Learned Hand

parulemaking@lsc.gov

June 25, 2013

Mark Freedman
Senior Assistant General Counsel
Legal Services Corporation
3333 K Street NW
Washington, DC 20007

Re: Comments, & Expression of Interest
in Appearing as a Panelist

Private Attorney Involvement Rulemaking
Legal Services Corporation
45 CFR part 1614 (78 FR 27339)
<https://federalregister.gov/a/2013-11071>

Dear Mr. Freedman.

I am submitting these comments in support of the recommendation which states:
“Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in “incubator” initiatives.”

I. Outline of Key Points:

I support the recommendation. I request an opportunity to make the following points at the workshops hosted by the Legal Services Corporation in connection with the rulemaking:

1. Civil legal aid programs increasingly seek to involve law students in pro bono initiatives as a means of increasing access to justice for vulnerable people, but have limited resources for training and supervising the students.
2. Law students increasingly seek to volunteer in civil legal aid programs, in response to the following developments: the justice gap, the access to justice movement, the increased emphasis on skills acquisition in law school, and the new, nationally significant, 50 hour pro bono service bar admission requirement in New York.

3. To effectively train and supervise law student volunteers, it is important for civil legal aid programs to be able to use their resources in satisfaction of their PAI obligations.

II. Summary of Qualifications:

During the past two years, I have carried out research, engaged in public writing, and participated in conference sessions with justice system stakeholders, on how the justice gap, the access to justice movement, and the new 50 hour pro bono service requirement in New York are helping to reshape legal education. I have become knowledgeable about how changes in legal education and in pro bono service by law students are creating new opportunities for civil legal aid programs, while also increasing demands on those programs. This perspective should have a place in the workshops at which LSC's PAI regulation will be reconsidered. Information about my work (along with some examples) is available here:

- *Is New York's 50 Hour Pro Bono Service Rule Changing the Future of Law Student Pro Bono*, in Bloomberg Law (January 28, 2013)¹
- *Law Students for Strengthening Law School Pro Bono*, Facebook²
- *Software for Law Student Pro Bono*, NCAJ's Policy Recommendation (February 25, 2013)³
- *National Roundtable on Pro Bono and Professional Development*, NALP (moderated by LSC President, Jim Sandman) (January 31, 2013)⁴
- *List of Replicable Law Student Pro Bono Model Projects and Structures – NCAJ's Policy Recommendation* (Oct. 15, 2012)⁵
- *Report & Recommendations of the Law School Involvement Working Group of the Task Force to Expand Access to Legal Services in New York* (contributing author) (December 1, 2012)⁶
- *Bio, David Udell*.⁷

III. Checklist of topics and items to be addressed

I have attached the checklist of topics and items to be addressed.

¹ <http://ncforaj.files.wordpress.com/2013/02/tyler-udell-bloomberg-law-law-student-pro-bono.pdf>

² <https://www.facebook.com/LawStudentProBono>

³ <http://ncforaj.files.wordpress.com/2013/02/lspb-software-application-2-25-13.pdf>

⁴ <http://www.nalp.org/probonoandpdroundtable>

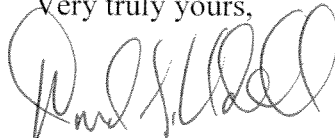
⁵ <http://ncforaj.files.wordpress.com/2012/10/final-models-memo-lspb-2p.pdf>

⁶ <http://ncforaj.files.wordpress.com/2012/12/report-recommendations-on-legal-ed-2012-tf.pdf>

⁷ <http://ncforaj.org/about-2/staff/david-udell/>

Thank you for your consideration.

Very truly yours,



David Udell

Name	David Udell, Executive Director, National Center for Access to Justice
Topic 1: LSC Pro Bono Task Force Recommendation 2(a) - Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives.	
x	How are legal service providers engaging new categories of volunteers? What are the needs of these new categories of volunteers?
x	What are the obstacles to LSC grant recipients' full use of these volunteers?
x	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the supervision and training of these volunteers?
x	How can LSC ensure against fraud, waste, or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
x	To the extent applicable, discuss how any approaches you recommend might be implemented.
x	Other issues related to Topic 1 (please specify in your submitted outline).
Topic 2: LSC Pro Bono Task Force Recommendation 2(b) - Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.	
	How are recipients currently using integrated intake and referral systems?
	Do LSC's current PAI regulations inhibit full use of integrated intake and referral systems?
	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to create and staff integrated intake and referral systems?
	How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
	To the extent applicable, discuss your organization's ability to execute any recommended approaches.
	Other issues related to Topic 2 (please specify in your submitted outline).
Topic 3: LSC Pro Bono Task Force Recommendation 2(c) - LSC should reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.	
	How are recipients currently using or supporting pro bono volunteers in brief service clinics?
	What are the obstacles to recipients' use of pro bono volunteers in brief service clinics?
	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics?
	If LSC were to allow recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics under circumstances where the users of the clinics are not screened for LSC eligibility or accepted as clients of the recipient, how could that change be implemented in a manner that ensures compliance with legal restrictions on recipients' activities and uses of LSC funds?
	How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
	To the extent applicable, discuss your organization's ability to execute any recommended approaches.
	Other issues related to Topic 3 (please specify in your submitted outline).

Colorado Supreme Court Panel Presentations

**Justices and Judges Bios
&
Executive Director Bios**

Panel of Distinguished Justices and Judges

July 22, 2013

Colorado Supreme Court Courtroom

Chief Justice Michael Bender, Supreme Court of Colorado

Michael L. Bender is the 44th Chief Justice of the Colorado Supreme Court. Governor Roy Romer first appointed Bender to the court in 1997, and his fellow justices voted him Chief Justice in 2010. Chief Justice Bender is responsible for overseeing the state's judicial branch, which employs more than 3,500 people, and in 2010, created the Chief Justice Commission on the Legal Profession and continues to chair it. As a Justice, he and Justice Kourlis initiated and led the reorganization of the attorney regulation system in 1998. In 2006, he led the reorganization of the judicial disciplinary system and, from 2006 until the present, chaired the Judicial Building Steering Committee for the Ralph L. Carr Colorado Judicial Center. After he was admitted to the bar, he worked as a deputy state public defender. He served as an attorney for the Denver Regional Litigation Center Equal Employment Opportunity Commission and then returned to work as a public defender. Before he was appointed to the court, he was a trial lawyer in private practice for nearly two decades. He has been an adjunct faculty member at both Colorado Law and the University of Denver Sturm College of Law. He has received a host of awards and recognitions, including Colorado Law's distinguished achievement award, outstanding judicial officer of the year, the Robert C. Heeney memorial award, and the Denver Bar Association volunteer lawyer of the year. He received his BA from Dartmouth College, and he earned his JD from Colorado Law in 1967. He also attended the Institute of Criminal Law and Procedure Master's Program at Georgetown Law Center and the Barrett E. Prettyman Fellowship Training. While in law school, he received the faculty award for outstanding student work in the University of Colorado Law Review. Bender is married to Helen Hand and has five children and five grandchildren.

Justice E. James Burke, Supreme Court of Wyoming

E. James Burke was appointed to the Wyoming Supreme Court in January, 2005. Prior to his appointment, Justice Burke served as a district judge in Cheyenne, Wyoming. Justice Burke received his B.S. degree from St. Joseph's College in Philadelphia, PA in 1971. Upon graduation, he entered the U.S. Air Force and was stationed at F.E. Warren AFB in Cheyenne until 1974. He obtained his J.D. from the University of Wyoming in 1977 and engaged in private practice in Cheyenne until his appointment to the bench in 2001.

Justice Christine Durham, Supreme Court of Utah

Justice Christine Durham has been on the Utah Supreme Court since 1982, and served as Chief Justice and Chair of the Utah Judicial Council from 2002 to 2012. She previously served on the state trial court after a number of years in private practice. She received her B.A. with honors from

Wellesley College and a J.D. from Duke University, where she is an emeritus member of the Board of Trustees. She is the Past-President of the Conference of Chief Justices of the United States, and also the past-chair of the American Bar Association's Council on Legal Education and Admissions to the Bar, the entity that accredits American law schools. She is a member of the Council of the American Law Institute, the Board of Overseers for the Rand Corporation's Institute for Civil Justice, and is a Fellow of the American Bar Association. Past professional service includes the governing boards of the American Inns of Court Foundation, the Appellate Judges Conference of the ABA, the ABA's Commission on Women in the Profession, and the Federal Judicial Conference's Advisory Committee on the Rules of Civil Procedure. She is also a past president of the National Association of Women Judges, and was that organization's Honoree of the Year in 1997. Justice Durham has been active in judicial education, and was a founder of the Leadership Institute in Judicial Education. She helped create and lead the Utah Coalition for Civic Character and Service Education and served on the Utah Commission on Civic Education. She was an adjunct professor for many years at the University of Utah College of Law, teaching state constitutional law, and served for twelve years on the Utah Constitutional Revision Commission. She has received honorary degrees from four Utah universities and has been recognized nationally for her work in judicial education and efforts to improve the administration of justice. In 2007 she received the William H. Rehnquist Award for Judicial Excellence; and in 2008 she received the "Transparent Courthouse" Award for contributions to judicial accountability and administration from the Institute for the Advancement of the Legal System at the University of Denver.

Chief Justice Michael Heavican, Supreme Court of Nebraska

On October 1, 2006, Michael Heavican took office as Chief Justice of the Nebraska Supreme Court.

Prior to joining the Nebraska Supreme Court, Chief Justice Heavican was a Deputy Lancaster County Attorney from 1975 to 1981, and Lancaster County Attorney from 1981 to 1990. He joined the United States Attorney's Office for the District of Nebraska in March 1991. During his employment with the U.S. Attorney's Office, he served as Acting First Assistant U.S. Attorney, Criminal Chief, and Acting U.S. Attorney. He was appointed U.S. Attorney for the District of Nebraska on September 21, 2001, by President George W. Bush.

While U.S. Attorney, Chief Justice Heavican served as a member of the Attorney General's Advisory Committee and as Chair of the Controlled Substances Subcommittee of the Attorney General's Advisory Committee.

Chief Justice Heavican currently serves as a member of the Board of Directors for the Conference of Chief Justices, as well as the Board of Directors of the National Center for State Courts. He also serves as First Vice President of the Conference of Chief Justices. In addition, in 2011 Chief Justice John Roberts of the United States Supreme Court appointed Chief Justice Heavican to serve as a

member of the Committee on Federal-State Jurisdiction of the Judicial Conference of the United States.

Chief Justice Heavican received his Bachelor of Arts degree from the University of Nebraska-Lincoln in 1969, and his Juris Doctorate degree from the University of Nebraska College of Law in 1974.

Chief Justice Petra Maes, Supreme Court of New Mexico

Petra Jimenez Maes was elected to the State's highest court, the Supreme Court in November 1998 becoming the first Hispana to serve on the court. On January 8, 2003 she was designated by unanimous vote of her colleagues to serve as Chief Justice. She served as Chief Justice until January 2005. While other Latino/Hispanic men have served as Chief Justice, she ushered in a new era as the first Hispanic Woman Chief Justice of the New Mexico Supreme Court. She is currently serving her second term (2012-2014) as Chief Justice.

Chief Justice Maes' efforts to improve the justice system include currently serving as co-chair of the New Mexico Commission on Access to Justice; and creating the Criminal Justice Task Force to address inequities in the public defender agency. She is also the Supreme Court Liaison on the Court Improvement Project, which is a comprehensive effort to assess and improve judicial proceedings related to child abuse and neglect, foster care, and adoption; and on JIFFY, the New Mexico Supreme Court Committee that oversees automation for the entire judiciary.

Chief Justice Maes received a B.A. from the University of New Mexico and a J.D. from UNM Law School. She was in private practice in Albuquerque, New Mexico until 1975 when she went to work for Northern New Mexico Legal Services. She was appointed to the First Judicial District Court in 1981. Her Judicial assignments in the District Court included: four years in the Criminal Division; six years in the Family Division; and seven years in the Civil Division. In addition to her other case assignments, Chief Justice Maes served as the Children's Court Judge for twelve years.

Chief Justice Maes has received the 2012 Spirit of Excellence Award from the American Bar Association's Commission for Racial and Ethnic Diversity recognizing her efforts to promote racial and ethnic diversity in the legal profession. Chief Justice Maes served on the National Review Board of the United States Conference of Catholic Bishops. The Board was established in June 2002 to address allegations of sexual abuse of minors by Catholic clergy.

Chief Justice Maes was born in Albuquerque, New Mexico on October 5, 1947. Her life experience includes raising four children as a single parent after her husband's death in 1983. She is also a proud grandmother of three granddaughters.

Judge William Martínez, United States District Court for the District of Colorado

Judge Martínez was born in México and immigrated with his family to this country as a young boy. The first member of his family to go to college, he earned B.S. and B.A. degrees from the University of Illinois, and his J.D. degree from the University of Chicago.

Before his appointment to the federal bench Judge Martínez had a diverse career as a civil litigator. He began his legal work as a Legal Services attorney in Chicago; he was a litigator with the Denver firm now known as Pendleton, Freidberg, Wilson & Hennessey; he has served as Regional Attorney of the U.S. Equal Employment Opportunity Commission; he was a sole practitioner for a few years, and most recently was partner of his own employment and civil rights law firm of McNamara, Roseman, Martínez & Kazmierski LLP.

As an attorney, Judge Martínez served as Vice Chair and Member of the Committee on Conduct of the U.S. District Court for the District of Colorado, and he was a Board member and Officer of the Faculty of Federal Advocates. He was also a member of the Legal Panel of the ACLU of Colorado, and served on the Board of Directors of the Colorado Hispanic Bar Association, where he served as Chair of the CHBA's Ethics Committee. He was appointed by the Colorado Bar Association to the Board of Directors of Colorado Legal Services in 2009, and by the Chief Justice of the Colorado Supreme Court to the Judicial Ethics Advisory Board earlier that same year.

Judge Martínez was honored by his induction as a Fellow in the College of Labor and Employment Lawyers in Washington, D.C., making him one of fewer than 25 Fellows in the State of Colorado. As a litigator he was listed in Best Lawyers in America in the field of employment law, and was made a Bar Fellow of the Colorado Bar Foundation. Judge Martínez previously won recognition as a Colorado Super Lawyer in the field of Employment & Labor Law, including being named to "The Top 50" of Colorado Super Lawyers across all fields of legal practice for 2008 & 2009.

In February 2010 Judge Martínez was nominated by President Barack Obama to be a United States District Judge. His nomination was confirmed by the U. S. Senate in December 2010, and Judge Martínez joined the federal district court bench in Denver in February 2011.

Legal Services in the Mountain West Region Panel

July 22, 2013

Colorado Supreme Court Courtroom

Jon Asher, Executive Director, Colorado Legal Services

Jonathan (Jon) Asher is the Executive Director of Colorado Legal Services, a position he has held since October 1999. Jon was formerly the Executive Director of the Legal Aid Society of Metropolitan Denver from December 1, 1980 until October 1, 1999 when the Legal Aid Society merged with Colorado's two other federally funded programs - Colorado Rural Legal Services and Pikes Peak/Arkansas River Legal Aid - and became a single statewide program, Colorado Legal Services. Jon currently serves on the Colorado Judicial Advisory Council, appointed by the Chief Justice of the Colorado Supreme Court. He also is a member of the Colorado Access to Justice Commission and the Colorado Bar Association's Board of Governors. He currently is Chair of the Colorado Bar Association's Availability of Legal Services Committee and is a member of its Family Violence Program Steering Committee.

He began his legal services career as a staff attorney with Colorado Rural Legal Services in Greeley, Colorado in August, 1971. Jon graduated from Harvard College and Harvard Law School.

Jim Cook, Executive Director, Idaho Legal Aid Services

Jim Cook is the Executive Director of Idaho Legal Aid Services (ILAS), a statewide non-profit law firm that serves the civil legal needs of low income Idahoans. Mr. Cook recently assumed the position after fourteen years as a staff attorney and Deputy Director. Throughout his career he has sought to make Idaho's judicial system more accessible to low income Idahoans. He serves on the Idaho Supreme Court's Access to Justice, Guardianship and Conservatorship, and Legal Forms Committees where he promotes judicial mechanisms tailored to low income persons. Mr. Cook has also pushed low income service providers to collaborate to better serve their mutual clients. He participates on the Idaho Delivery of Legal Services Council and the Idaho Commission on Aging's Long Term Care Policy Advancement Steering Committee with this goal in mind. Mr. Cook is a leader within the Idaho State Bar's Diversity Section. He is a recent graduate of the Idaho Academy of Leadership for Lawyers.

Jim has focused on modernizing the way ILAS serves clients. This includes:

- Secured funding for the creation of an online ILAS intake system and a "virtual law office" to make it easier to serve rural clients. These will begin operation in 2013 and 2014 respectively.
- Promoted an ILAS project to build a modern website template, used by more than 20 LSC grantees, that is accessible by users of smart phones, tablets and other mobile devices.
- Secured funding from the LSC and others to create online interactive legal forms designed for use by unrepresented litigants. More than 20,000 forms packets are assembled annually through this ILAS/Idaho Supreme Court project.
- Helped establish ILAS offices at Idaho's two family justice centers which co-locate providers to holistically serve victims of domestic violence and assault.

- Worked to enhance three attorney staffed statewide legal advice lines.
- In May 2013, he negotiated an MOU with Concordia College of Law to establish a legal clinic designed to generate legal content for low income persons which will be taught by ILAS staff.

Mr. Cook lives with his wife and son in Boise, Idaho. In earlier days he was an avid mountaineer, climbing volcanoes in the Cascade Mountains and Idaho's highest summits. Today, he has branched out to fine cooking and travel. In his spare time he is designing a volunteer project for lawyers to expunge the criminal records of Idaho youth "aging out" of the foster care system so they will have a chance to succeed as adults.

AnnaMarie Johnson, Executive Director, Nevada Legal Services

AnnaMarie Johnson is a 1985 graduate of the University of North Dakota School of Law. She was introduced to the concept of legal services during law school when she worked for one of the UND's several law school clinics. The desire to work for legal services continued upon graduation and she was fortunate to find work with Mid-Minnesota Legal Assistance shortly after graduation. Ms. Johnson founded MMLA's Indian Law Project that served the Mille Lacs Reservation in 1987. She has worked in Indian Legal Services since then. In 1997, Ms. Johnson went to work for DNA-People's Legal Services, first as an attorney with DNA's Native American Protection and Advocacy Project assisting developmentally disabled clients and then as an administrator at DNA. In 2004, Ms. Johnson moved to Las Vegas, Nevada, and began working at Nevada Legal Services as the Director of Litigation. She became the Executive Director of NLS in 2008.

Ed Marks, Executive Director, New Mexico Legal Aid

Ed Marks has been Executive Director for New Mexico Legal Aid since November 2011. Between 2004 and 2011, Ed was Litigation Director and Deputy Director for Legal Aid of Western Ohio. Ed also has been a national trainer and consultant for legal aid technology since the early 2000's. Ed began his legal services career in 1988 as a staff attorney with DNA Legal Services on the Navajo and Hopi Nations in Arizona.

Anne Milne, Executive Director, Utah Legal Services, Inc.

Anne Milne has worked for Utah Legal Services for 35 years as a staff attorney, managing attorney, and deputy director before becoming the executive director. ULS is a statewide program with 47 employees and a \$3.2 million annual budget. She was actively involved in the creation of "and Justice for all" a collaboration of the three largest civil legal providers in Utah. Anne has been involved in Utah State Bar activities, including serving on the Access to Justice Task Force, the Legal Needs of the Elderly and Delivery of Legal Services Committees and served as Chair of the Mandatory Continuing Legal Education Board. She has served as a Trustee and President of the University of Utah College of Law Alumni Association and on the Board of the YWCA of Salt Lake. Anne has received the Utah Woman Lawyer of the Year and Advancement of Women in the Law Awards.

Colline Wahkinney-Keely, Executive Director, Oklahoma Indian Legal Services

Colline Wahkinney Keely has served as Executive Director of Oklahoma Indian Legal Services since 2001. Ms. Keely worked as a staff attorney with OILS for twelve years prior to becoming Executive Director. Her field of practice is concentrated in Indian Land Titles and Probate of Five Civilized Tribes allotments.

Ms. Keely where has devoted her legal career to representing individual Oklahoma Indians in cases involving the application of federal Indian law. She has extensive experience in legal issues involving the land allotments of Oklahoma tribes.

Colline is a frequent speaker at legal seminars and trainings and is past Treasurer of the Oklahoma Indian Bar Association and past Chair of the Indian Law Section of the Oklahoma Bar Association. Ms. Keely also serves as a steering committee member of the National Association of Indian Legal Services. She graduated from the University of Oklahoma College of Law and is a veteran of the U.S. Navy. Colline is a member of the Comanche Nation.