

LEGAL SERVICES CORPORATION

Board of Directors Meeting

January 24 – 26, 2013

Location:

Hyatt French Quarter New Orleans
800 Iberville Street
New Orleans, Louisiana 70113



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I. Schedule



**LEGAL SERVICES CORPORATION BOARD OF DIRECTORS
MEETING SCHEDULE
Hyatt French Quarter New Orleans
800 Iberville Street
New Orleans, LA 70113
Tel: 504-561-1234**

JANUARY 24-26, 2013

THURSDAY, JANUARY 24, 2013			
Start	End	Meeting/Event	Location
5:00pm	6:30pm	<p style="text-align: center;">Pro Bono Awards Reception <u>Guest Speakers</u> <i>Patricia A. Krebs</i>, President, Louisiana Bar Foundation <i>Larry McDevitt</i>, ABA Standing Committee on Pro Bono & Public Service, Chair; Van Winkle Law Firm, Senior Principal <i>John H. Musser IV</i>, President, Louisiana Bar Association <i>E. Paige Sensenbrenner</i>, Senior Partner, Adams & Reese LLP</p> <p style="text-align: center;"><u>Awardees</u> <i>Anu Kakonen</i>, North Louisiana Legal Services <i>Winfield E. Little, Jr.</i>, Acadiana Legal Services <i>Laborde & Neuner (Frank X. Neuner, Jr)</i>, Acadiana Legal Services <i>Robert Omsley</i>, North Louisiana Legal Services <i>Judge Melvin Shortess</i>, Southeast Louisiana Legal Services <i>Mark Surprenant</i>, Southeast Louisiana Legal Services</p>	<p>Louisiana Supreme Court Building Great Hall 400 Royal Street New Orleans, LA 70130</p>



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MEETING SCHEDULE

Hyatt French Quarter New Orleans

800 Iberville Street

New Orleans, LA 70113

Tel: 504-561-1234

JANUARY 24-26, 2013

FRIDAY, JANUARY 25, 2013

Start	End	Meeting/Event	Location
9:00am	10:45am	<p>Introductory Remarks <i>John G. Levi</i>, Chairman, Legal Service Corporation Board of Directors <i>Judge Madeleine M. Landrieu</i>, Louisiana State Court of Appeals Fourth Circuit</p> <p>Panel of Distinguished Justices & Judges <i>Justice Michael Bolin</i>, Supreme Court of Alabama <i>Justice Jess H. Dickinson</i>, Mississippi Supreme Court <i>Justice Nathan L. Hecht</i>, Supreme Court of Texas <i>Incoming Chief Justice Bernette Joshua Johnson</i>, Louisiana Supreme Court <i>Chief Justice John D. Minton, Jr.</i>, Supreme Court of Kentucky <i>Judge William A. Van Nortwick, Jr.</i>, Florida First District Court of Appeal <i>Dean Martha Minow</i>, Harvard Law School (Moderator)</p>	<p>Louisiana Supreme Court Building Supreme Court Courtroom 400 Royal Street New Orleans, LA 70130</p>
11:00am	12:15pm	<p>Panel on Disaster Preparedness & Relief <i>Martha Bergmark</i>, Founding President & CEO, Mississippi Center for Justice <i>Paul E. Furrh, Jr.</i>, Executive Director, Lone Star Legal Aid <i>Bob Horowitz</i>, Director, Professional Services Division/DC, American Bar Association <i>Brad J. Kieserman</i>, General Counsel, FEMA <i>Rann Rasmussen</i>, Executive Director, Legal Services NYC <i>Marta Schnabel</i>, Shareholder, O'Bryon & Schnabel <i>Ranie T. Thompson</i>, Managing Attorney, Southeast Louisiana Legal Services</p>	<p>Louisiana Supreme Court Building Supreme Court Courtroom 400 Royal Street New Orleans, LA 70130</p>



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JANUARY 24-26, 2013

		<i>Jim Sandman</i> , President, Legal Services Corporation (<i>moderator</i>)	
2:00pm	3:30pm	Presentations by LSC-funded Louisiana Programs Acadiana Legal Service Corporation Legal Services of North Louisiana, Inc. Southeast Louisiana Legal Services Corporation	Hyatt French Quarter D.H. Holmes B & C
3:45pm	5:00pm	Promotion & Provision Committee <i>Jon Asber</i> , Executive Director, Colorado Legal Services <i>David Pantos</i> , Executive Director, Legal Aid of Nebraska <i>Patricia Pap</i> , Executive Director, Management Information Exchange <i>Rhodia Thomas</i> , Executive Director, MidPenn Legal Services	Hyatt French Quarter D.H. Holmes B & C
5:00pm	6:15pm	Operations & Regulations Committee	Hyatt French Quarter D.H. Holmes B & C
SATURDAY, JANUARY 26, 2013			
Start	End	Meeting/Event	Location
6:16pm	7:00pm	Institutional Advancement Committee	Hyatt French Quarter D. H. Holmes B & C
8:30am	9:30am	Governance & Performance Review Committee	Hyatt French Quarter D.H. Holmes A



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JANUARY 24-26, 2013

9:15am	10:45am	Audit Committee	Hyatt French Quarter D.H. Holmes B & C
10:30am	11:30am	Finance Committee	Hyatt French Quarter D.H. Holmes A
11:30am	1:00pm	Board of Directors - OPEN	Hyatt French Quarter D.H. Holmes B & C
1:30pm	2:15pm	Board of Directors - CLOSED	Hyatt French Quarter D.H. Holmes B & C



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NOTES

II. SUPREME COURT OF LOUISIANA EVENTS

Panel of Distinguished Justices and Judges

January 25, 2013

Louisiana Supreme Court Building

Justice Michael F. Bolin, Supreme Court of Alabama

Michael F. Bolin was born in, and a lifetime resident of, Jefferson County, Alabama. He attended elementary school in Birmingham, being accepted into the first magnet school for scholastic achievement. He then attended Homewood Junior High School, and graduated from Shades Valley High School in 1966 as a member of the National Honor Society. In 1970, he received his B.S. in Business Administration from Samford University. In 1973, he received his J.D. from Cumberland School of Law, graduating cum laude. At Cumberland, he was on the Dean's List and served as Associate Editor of the Cumberland-Samford Law Review. He was later inducted into Curia Honors, Cumberland's leadership and honor society.

Justice Bolin was a practicing attorney in Birmingham from 1973 through 1988, when he was elected as Probate Judge of Jefferson County. He was re-elected to that position in 1994 and 2000. He served in that position until his election to the Alabama Supreme Court in 2004, and began serving as an Associate Justice in January 2005.

Justice Bolin was active in the Alabama Probate Judges Association, serving as chairman of various association committees. He was elected by his peers as President, Secretary, and Treasurer of the Probate Judges Association. He served on the Children's Code Committee, Probate Procedures Committee, Adoption Committee, and Paternity Committee of the Alabama Law Institute. He authored the Putative Father Registry law in Alabama, which protects the rights of all parties in adoption proceedings. He received the national award from the "Angels of Adoption" organization in Washington, D.C. in 2000 for his service to adoptive families. He additionally served as Chief Election Official, Chairman of the Alabama Electronic Voting Committee, and as Vice Chairman of the Governor's Commission on Consolidation, Efficiency, and Funding in 2003. He is a member of the Vestavia-Hoover Kiwanis Club.

Justice Bolin and his wife, Rosemary, have one daughter, Leigh Anne. They attend St. Peter the Apostle Church in Hoover.

Justice Jess H. Dickinson, Mississippi Supreme Court

Justice Jess H. Dickinson was born in Charleston, Mississippi, in 1947. After graduation from East Tallahatchie High School in 1965, he attended Mississippi State University, receiving his Bachelor of Science degree in 1978. He received his Juris Doctor cum laude from the University of Mississippi School of Law in 1982, where he served on the editorial board of the Mississippi Law Journal.

After practicing law for one year in Jackson, and 20 years in Gulfport, Justice Dickinson served as a Forrest County Circuit Court Judge, by special appointment of the Mississippi Supreme Court. His service on the Supreme Court began in January 2004. His first year on the Court, Justice Dickinson was awarded the Chief Justice Award for his work in advancing the administration of justice. He again received the Chief Justice Award in 2010 for his work on improving access to justice for the poor in Mississippi. In 2009, the Mississippi Volunteer Lawyers Project awarded Justice Dickinson its Pro Bono Pioneer Award.

Justice Dickinson has served on the adjunct faculty of William Carey College and Mississippi College School of Law where, in 2009, he was elected by the law students as Adjunct Professor of the Year. He served two terms on both the Ethics Committee and the Professionalism Committee of the Mississippi Bar. He also serves as the Supreme Court's liaison to organizations providing legal services to the poor, and is a charter member of the Mississippi Access to Justice Commission.

Justice Nathan L. Hecht, Supreme Court of Texas

Justice Nathan L. Hecht was elected to the Texas Supreme Court in 1988 and re-elected in 1994, 2000 and 2006. He is the senior Texas appellate judge in active service.

Throughout his service on the Court, Justice Hecht has overseen revisions to the rules of administration, practice and procedure in Texas courts. In 2000, he was appointed by the Chief Justice of the United States to the Advisory Committee on Civil Rules for the Judicial Conference of the United States, on which he served until 2006. Justice Hecht is also the Supreme Court's liaison to the Texas Access to Justice Commission and oversees the Court's efforts to help provide basic civil legal services to Texans living in poverty.

Justice Hecht began his judicial service in 1981, when he was appointed to the 95th District Court of Dallas County. He was elected to that bench in 1982 and re-elected in 1984. In 1986, he was elected to the Court of Appeals for the Fifth District of Texas at Dallas, where he served until his election to the Supreme Court.

Justice Hecht earned his B.A. at Yale University with honors in philosophy, and graduated *cum laude* from the Southern Methodist University School of Law, where he was elected to Order of the Coif and an editor for *the Southwestern Law Journal*. He served as law clerk to Judge Roger Robb of the U.S. Court of Appeals for the District of Columbia Circuit. He also served as a lieutenant in the U.S. Naval Reserve JAGC. He practiced law in the area of general litigation with the Dallas firm of Locke Purnell Boren Laney & Neely, and was a shareholder in that firm before his appointment of the bench.

Justice Hecht is a member of the American Law Institute, the Texas Philosophical Society, and a Fellow of the American, Texas, and Dallas Bar Foundations. He received the Southern Methodist University School of Law Distinguished Alumni Award for Judicial Service in 2000, and the Hatton W. Sumners Foundation Distinguished Public Service Award in 2004. He has taught as an adjunct professor at the University of Texas School of Law.

His term ends December 31, 2012.

Chief Justice Bernette Joshua Johnson, Louisiana Supreme Court

As of February 1, 2013, Justice Bernette Joshua Johnson will serve as the first African-American Chief Justice of the Louisiana Supreme Court. Justice Bernette Joshua Johnson was elected to serve on the Louisiana Supreme Court in 1994, and was re-elected, without opposition, in 2000 and 2010. She serves on the Louisiana Supreme Court's Judicial Council, and has served on the Court's Legal Services Task Force, as well as the National Campaign on Best Practices in the area of Racial and Ethnic Fairness in the Courts. Justice Johnson has worked closely with the Court's Mandatory Continuing Legal Education Committee and the Committee on Bar Admissions. She is the Court's appointee to the Louisiana Law Institute.

Justice Johnson attended Spelman College in Atlanta, Georgia on an academic scholarship, where she received a Bachelor of Arts degree. She received an Honorary Doctorate in Law from Spelman College at commencement services in April, 2001. She was one of the first African-American women to attend the Law School at Louisiana State University (“LSU”), where she received her Juris Doctorate degree in 1969. She was honored by her law school in 1996, when her portrait was unveiled, and she was inducted into the LSU Law Center’s Hall of Fame.

Justice Johnson’s judicial career began in 1984, when she was elected to the Civil District Court of New Orleans, and was the first woman to hold that office. She was re-elected, without opposition, in 1990 and was elected Chief Judge by her colleagues in 1994. As a civil trial judge, she was first assigned to Domestic Relations Court, where she established a system to refer custody, alimony, and child support issues to mediation conducted by certified social workers of the Children's Bureau and Family Services, prior to court appearances. The mediation was provided to needy families based on a sliding scale system for payment of fees.

For much of her life, Justice Johnson has worked as an advocate for social justice, civil rights, and community organizing. During the 1960's, she worked as a community organizer with the National Association for the Advancement of Colored People (NAACP), Legal Defense & Educational Fund. She worked with community groups in Alabama, Mississippi, Georgia, North Carolina, South Carolina, Tennessee and Louisiana, disseminating information about recent school desegregation decisions, and encouraged parents to take advantage of newly desegregated schools. She used these skills later to help organize household workers so they would receive Social Security benefit, and a minimum wage. While a law student, Justice Johnson worked as a Law Intern with the U.S. Department of Justice (Civil Rights Division) Washington, D.C. She worked on cases filed by the Department to implement the 1964 Civil Rights Act. These dealt mostly with discrimination in public accommodations. She also served as a Federal Observer during elections in Greenwood, Mississippi.

After receiving her Juris Doctorate Degree from Louisiana State University Law School, Justice Johnson became the Managing Attorney with the New Orleans Legal Assistance Corporation, where she delivered legal services to over three thousand (3,000) clients in socio-economically deprived neighborhoods. As a civil litigator, she worked in the Federal and State District Courts, and Juvenile Court advancing the rights of children, the poor, the elderly, and the disenfranchised. She litigated several consumer protection cases involving the Truth-in-Lending statute. These lawsuits were filed against aluminum siding salesmen and contractors who were going door-to-door convincing mostly elderly homeowners to sign contracts for shoddy work that resulted in liens on their homes.

In 1981, Justice Johnson joined the City Attorney’s staff, and later became a Deputy City Attorney for the City of New Orleans. There, she attained extensive trial experience in the Civil District Court and U.S. District Court defending police brutality claims, and general tort claims, filed against the City of New Orleans. She supervised civil service litigation before the New Orleans Civil Service Commission, and supervised appellate work before the Louisiana Fourth Circuit Court of Appeals, where she defended agency suspensions and terminations.

Justice Johnson's scholarly pursuits include serving as an Adjunct Faculty member teaching Trial Advocacy at Tulane University Law School, and serving as an Adjunct Professor at Southern University, New Orleans, teaching Legal Terminology and Business Law. She has published numerous editorials, essays, legal opinions, and other scholarly works throughout her career.

Justice Johnson is the recipient of numerous awards. In 2010, she received the Spirit of Excellence Award from the American Bar Association Commission on Racial and Ethnic Diversity in the Profession, and in 2009, Justice Johnson received the Distinguished Jurist Award presented by the Louisiana Bar Foundation, and the Louisiana Bar Association President's Award for Exceptional Service as co-chair of the Task Force on Diversity in the Profession. She was presented with the Louis A. Martinet Legal Society President's Award in 1997 and 2008. In 2005, she was received the National Nobel Woman Award presented by the Organization of Black Elected Legislative Women, and the Judicial Public Service Award presented by the Ancient Egyptian Arabic Order Nobles Mystic Shrine of North and South America. Her other awards include: the 2000 Medal of Honor presented by the Mayor of the City of New Orleans; the 2000 Women of Wonder Award presented by the National Council of Negro Women; the first Ernest N. Morial Award presented by the New Orleans Legal Assistance Corporation; the A.P. Tureaud Citizenship Award presented by the Louisiana State Conference of the NAACP; the 1999 Martin Luther King, Jr. Torch Bearer Award; the 1998 Outstanding Community Service Award presented by the Imperial Court Daughters of Isis; the 1998 American Bar Association's Margaret Brent Women Lawyers of Achievement Award; the 1998 Outstanding Service Award presented by the International Law Section of the National Bar Association; and the 1992 Role Model Award presented by the Young Women's Christian Association (YWCA) of Greater New Orleans.

In 1998, she was the Chairperson of the National Bar Association-Judicial Council where she also served a term as Secretary. Justice Johnson organized the first Continuing Legal Education (CLE) program for the Louis A. Martinet Legal Society and was Chair of the CLE Committee. She is a Fleur De Lis member of the New Orleans Bar Association, and is active with several committees of the Louisiana State Bar Association, including the Louisiana Bar Foundation. She is an active member of the A.P. Tureaud Chapter of the American Inns of Court, where she currently serves as President; the Louisiana State Law Institute, and the National Association of Women Judges, where she has served as a District Director, and is now active with the Women in Prison Project. Justice Johnson is a member of the Greater St. Stephen Full Gospel Baptist Church, where she serves on the Trustee Board. She is an active member of Omicron Nu Zeta Chapter, Zeta Phi Beta Sorority, Inc., and the New Orleans Chapter of Links, Inc., both service organizations.

In addition to her judicial responsibilities, Justice Johnson has been actively involved in serving the community. She has served as an Executive Committee Member of the National Alumnae Association Spelman College (1991-1994); as Chair of the New Orleans Chapter of the Southern Christian Leadership Conference (1989-1994); as a Member of the Martin Luther King National Holiday Planning Committee; as a Member of the Board of Directors of the Young Women Christian Association and as a Life Member of the NAACP.

A much sought after speaker, Justice Johnson is frequently called upon to address legal, academic, and community groups. In 1995, she was the Commencement Speaker at Grambling State University. She was guest speaker at the Arizona Missionary Baptist State Convention in Phoenix, Arizona in 1996; a guest speaker at the Martin Luther King, Jr., Celebration in Eatonville, Florida in 1998. She was the Women's History Month Speaker at several U.S. Military bases in Germany in March, 2001, and the Commencement Speaker at Southern University Law Center in 2003. In 2004, she delivered the John H. Tucker, Jr. Lecture in Civil Law at the Louisiana State University (LSU) Paul M. Hebert Law Center in Baton Rouge, Louisiana, and, in 2006, she lectured law students at Wuhan University Law School, in Wuhan, P.R. China. She was the Black History Month Speaker for the New Orleans Drug Enforcement Agency in 2007; and in 2008, she was the guest lecturer at the Urban League of Portland, Oregon.

Justice Johnson is the proud parent of two industrious and conscientious adult children: a son David, an accountant, who lives in Atlanta with his family, and a daughter Rachael, who is an attorney licensed to practice law in Florida and Louisiana.

Judge Madeleine M. Landrieu, Louisiana Fourth Circuit Court of Appeal

Madeleine M. Landrieu is a 1987 Graduate of Loyola University Law School where she was a member of the Law Review, Moot Court Board and The Law Clinic. Upon graduation from law school, she joined the law firm of Gainsburgh, Benjamin, David where she litigated in both state and federal court. During her 14 years of private practice, she served the Bar and legal community in many capacities, including serving as Chair of the New Orleans Pro Bono Project and as member of the Louisiana Bar Foundation's Board and IOLTA Grants Committee. In 1998, she received the Louisiana State Bar Association's Pro Bono Publico Award and the Young Lawyers' Section Pro Bono Award.

In 2001, Judge Landrieu was elected Judge for the Civil District Court in Orleans Parish where she served for 11 years before being elected to the Court of Appeal, Fourth Circuit for the State of Louisiana.

In 2002, Judge Landrieu received the Michaele Pitard Wynne Professionalism Award from the Association of Women Attorneys and the Gillis Long Poverty Law Center's Public Service Award. In 2009, she received the President's Award from the Louisiana State Bar Association. She is a past President of the Louisiana District Judges Association and just completed her term as the first president of the Louisiana Judicial College, the Education Board of the Louisiana Supreme Court charged with providing continuing legal education seminars for the Louisiana Judiciary.

Judge Landrieu is very active in the community, where she currently serves on the Board of Covenant House New Orleans, an agency that serves homeless and at-risk youth.

Chief Justice John D. Minton, Jr., Supreme Court of Kentucky

John D. Minton Jr. was sworn in as the fifth Chief Justice of Kentucky on June 27, 2008, after serving for two years as a justice on the Supreme Court.

In November 2006, Chief Justice Minton was elected to an eight-year term on the Supreme Court of Kentucky after running unopposed in the 2nd Supreme Court District, which is comprised of 14 counties in western Kentucky. He first joined the Supreme Court in July 2006 when then-Gov. Ernie Fletcher appointed him to fill the unexpired term created by the June 30, 2006, retirement of Justice William S. Cooper. Before sitting on the Supreme Court, Chief Justice Minton had been a judge on the Kentucky Court of Appeals, the state's intermediate appellate court, since November 2003.

Chief Justice Minton came to the appellate bench from the trial court. He was judge of the Warren Circuit Court from 1992 to 2003. In addition to his trial court duties, he also served by special appointment of the late Chief Justice Robert F. Stephens and then-Chief Justice Joseph E. Lambert as Chief Regional Judge of the Green River Region, an administrative post assisting the Chief justice with assigning special judges in a 21-county area of south central Kentucky.

While on the Circuit Court bench, Chief Justice Minton was recognized for his leadership in forming the Warren County Drug Court and for his commitment to law-related education programs. In 2003, the Kentucky Bar Association honored him with its Outstanding Judge Award. Chief Justice Minton was actively involved in continuing judicial education as a longtime member of the Education Committee of the Kentucky Circuit Judges Association.

Prior to his election to the circuit bench, Chief Justice Minton engaged in the private practice of law in Bowling Green, Ky., for more than 15 years. He graduated from the University Of Kentucky College Of Law in 1977 and was admitted to the Kentucky bar that same year. He earned his bachelor's degree with honors from Western Kentucky University in 1974 and is a 1970 graduate of Western's University High School.

At a young age, Chief Justice Minton moved with his parents from Cadiz, Ky., to Bowling Green, where he grew up and currently resides. He is married to Susan Page Minton, a Bowling Green native. The Mintons have two teenage children, a daughter, Page Sullivan Minton, and a son, John D. Minton III.

Chief Justice Minton is the son of the late Dr. John D. Minton and Betty Redick Minton of Bowling Green. Dr. Minton, who passed away June 29, 2008, retired from Western Kentucky University, having served that institution for many years as a history professor, administrator and its fifth president. Mrs. Minton continues to live in Bowling Green.

Judge William A. Van Nortwick, Jr., Florida First District Court of Appeal

William A. Van Nortwick, Jr. has served as a judge on Florida's First District Court of Appeal for 18 years after a career in private practice in Jacksonville, Florida. His practice involved a wide range of business law, including transactional matters and commercial and administrative litigation and appeals. A native of North Carolina, Judge Van Nortwick received his undergraduate degree from Duke University and his juris doctor with honors from the University of Florida, where he served as executive editor of the law review.

He has been active in many professional organizations, including the American Bar Association Judicial Division Ethics and Professionalism Committee, the Florida Bar Standing Committee on Pro Bono Legal Services (current chair), the Florida Supreme Court Professionalism Commission, the executive council of the Florida Bar Business Law Section, the Florida Court Education Council, the Florida Bar Foundation (president), and the Florida District Court of Appeal Performance and Accountability Commission

(current chair). Judge Van Nortwick is also involved in teaching the law, serving as an adjunct professor at Florida State University College of Law, teaching Professional Responsibility, a visiting professor at University of Trento Law School in Italy, and the Appellate Associate Dean of the Florida College of Advanced Judicial Studies. He is a frequent lecturer for CLE and CJE programs.

Judge Van Nortwick has received the Florida Supreme Court Distinguished Judicial Service Award, the American Bar Association Pro Bono Publico Award, the Florida Bar Pro Bono Award for Florida's Fourth Judicial Circuit, the Thurgood Marshall Award for Florida's Second Judicial Circuit, and the Florida Bar President's Award of Merit in both 1992 and 2002.

Panel on the Role of Legal Aid in Disaster Preparedness & Relief

January 25, 2013

Louisiana Supreme Court Building

Martha Bergmark, Founding President & CEO, Mississippi Center for Justice

Martha returned home to Mississippi in 2003 as the founding president and CEO of the Mississippi Center for Justice. For the previous 15 years, she was a national advocate for equal justice under law in Washington DC, serving tenures as president and executive vice president of the Legal Services Corporation, which administers federal funding for legal aid programs, and as senior vice president for programs at the National Legal Aid and Defender Association, where she directed the NLADA/Center for Law and Social Policy's Project for the Future of Equal Justice. For the first 14 years of her legal career, Martha practiced civil rights and poverty law in Hattiesburg, Miss., where she was the founding executive director of Southeast Mississippi Legal Services (now Mississippi Center for Legal Services). She is a former Reginald Heber Smith Fellow and the 1990 recipient of the Kutak-Dodds Prize for her civil rights and legal aid work in her home state of Mississippi. In 2003, she was named the Stern Family Fund's Public Interest Pioneer, an honor which came with a \$200,000 grant to launch the Center. She is a magna cum laude graduate of Oberlin College, earned her law degree cum laude at the University of Michigan Law School and holds an honorary doctorate of public service from Millsaps College.

Paul E. Furrh, J., Chief Executive Officer, Lone Star Legal Aid

Paul E. Furrh, Jr. is the CEO of LSLA officed in Houston and is responsible for the internal and external affairs of the firm. He graduated from the University of Texas with a B.A., the University of Houston with a J.D., and the Executive Program for Nonprofit Leaders, Stanford Graduate School of Business. He joined East Texas Legal Services in 1980 as Deputy Director and was named Executive Director in 1982.

He has over 35 years experience managing nonprofit organizations, the past 30 years as the CEO of a large, regional legal services program which provides a full range of legal services to low income persons. He served two terms as a Commissioner on the Texas Access to Justice Commission; member and former Chair of the Supreme Court of Texas Task Force on the Expansion of Legal Services; former Chair and member of the State Bar of Texas Legal Services to the Poor in Civil Matters Committee; Advisory member, Supreme Court of Texas Permanent Judicial Commission for Children, Youth and Families; peer consultant, ABA Center for Pro Bono; and mentor, LSC Leadership Mentoring Pilot Project. He served as Chair of the Texas Legal Services State Planning Committee for the Delivery of Legal Services to the Poor, and as President of the Nacogdoches County Bar Association from 2002 to 2004. He was recognized with a State Bar of Texas Presidential Citation in 2005; Over Twenty Years Leadership Award, Legal Services Corporation in 2004; Stanford Graduate School of Business Center for Social Innovation Fellow in 2003; and Peter Drucker Foundation Hesselbein Community Innovation Fellow in 2003.

Bob Horowitz, Director, Professional Services Division/DC, American Bar Association

Robert M. Horowitz has been with the American Bar Association since 1975. Since 1993 has been the Director of the Division of Professional Services, which provides oversight to over 20 sections, divisions, committees and commissions housed in the ABA Washington DC office. In addition to these duties he is staff counsel to the ABA Standing Committees on Gun Violence and Medical Professional Liability and to the Special Committee on Disaster Response and Preparedness. He also co-directs the ABA Presidential Initiative related to Human Trafficking.

Within his ABA career, he has served in several other capacities, including as director of the ABA Rule of Law Initiative which undertakes legal technical assistance projects worldwide. He is also a cofounder (1978) of the ABA Center for Children and the Law. He remains active with the Center and is nationally recognized as a legal expert in children's law for which he has lectured, served on boards, taught in law schools, and written extensively. With Center Director Howard Davidson, he coauthored and edited *The Legal Rights of Children*, the first ever treatise on this subject, and has previously served as editor the *The Children's Legal Rights Journal*.

A native of Buffalo, New York, Mr. Horowitz holds a Bachelor of Arts degree from Brandies University and a Juris Doctorate from the Georgetown University Law Center. He is a member of the District of Columbia and Maryland State Bar Associations.

Brad J. Kieserman, General Counsel, FEMA

Brad Kieserman began serving as the Chief Counsel of the Federal Emergency Management Agency (FEMA) in March 2010. The Office of Chief Counsel advises the Administrator and all of FEMA's directorates on legal matters related to agency programs and operations.

Prior to coming to FEMA, Mr. Kieserman served as Associate General Counsel for Operations and Enforcement in the Department of Homeland Security's (DHS) Office of the General Counsel. In that role, Mr. Kieserman's portfolio included emergency and incident management, use of force, counterterrorism operations, law enforcement authorities and activities, international operations, border-, aviation-, maritime-, and transportation-related security, and screening and credentialing programs. Mr. Kieserman led the DHS operational legal team responding to the H1N1 outbreak in 2009, the 2009 Christmas Day bombing attempt of Northwest Flight #253, and the response to the 2010 earthquake in Haiti.

In 2009, Mr. Kieserman received an appointment to the Senior Executive Service after 22 years in civilian, enlisted, and commissioned officer positions with the U.S. Coast Guard. His tours of duty in the Coast Guard included 11 years at sea, 10 years as a federal maritime law enforcement officer, and two years as Commanding Officer of the USCGC Point Countess in South Florida. Mr. Kieserman was a first responder during the Exxon Valdez oil spill in 1989 and the Caribbean mass migrations in 1994, and participated in dozens of search and rescue operations at sea.

After serving as the Legal Advisor to the Coast Guard's Chief of Law Enforcement during and after the attacks of September 11, 2001, Mr. Kieserman was selected in 2004 as the first Chief of the Coast Guard's Operations Law Group. In that position, he oversaw the provision of real-time, on-demand legal

advice for worldwide Coast Guard operations, conducted numerous international negotiations, and trained hundreds of attorneys. Mr. Kieserman is also a co-author of the President's Maritime Operational Threat Response (MOTR) Plan and served as the Federal MOTR Coordinator for hundreds of maritime incidents and interdictions, including the pirate attack on the U.S. flagged vessel Maersk Alabama off the coast of Somalia in 2009.

Mr. Kieserman is a graduate of the State University of New York, and received his J.D. magna cum laude from the Columbus School of Law at Catholic University in Washington, DC, where he was managing editor of the *Catholic University Law Review*. In 2008, Mr. Kieserman received the Secretary of Homeland Security's Silver Medal, which is awarded for exceptionally meritorious service to the department, and to the federal government. His military awards include the Legion of Merit and the Meritorious Service Medal. Mr. Kieserman and his wife Cathy have two sons, Hunter and Noah.

Raun Rasmussen, Executive Director, Legal Services NYC

Mr. Rasmussen was named Executive Director of Legal Services NYC in June, 2011. He has been a member of the LS-NYC family for over 25 years, serving as LS-NYC's Chief of Litigation and Advocacy since 2003. As such, he directed the LS-NYC Legal Support Unit, which provides litigation and advocacy leadership and support, training, coordination and assistance to legal services providers across New York City.

Mr. Rasmussen began his career as a housing attorney at South Brooklyn Legal Services. He later became SBLS's Director of Litigation, supporting the development of affirmative litigation, helping to develop a highly successful foreclosure prevention project designed to combat predatory lending practices, and creating and supervising the Child Care Network Support Project, which continues to provide legal services and training to home-based child care providers.

Mr. Rasmussen has written numerous articles on residential displacement, foreclosure-related issues, ethics, affirmative litigation and child care work. He has been a recipient of the New York Lawyers for the Public Interest Felix Fishman Award for Exemplary Service, the New York County Lawyers Association Public Service Award, and the New York City Bar Association Legal Services Award. He is a member of the Board of Directors of the Neighborhood Economic Development Advocacy Project and serves on the Advisory Committee of the Initiative for Neighborhood and City-Wide Organizing. Mr. Rasmussen holds a B.A. from Amherst College and a J.D. from Harvard Law School.

Marta Schnabel, Shareholder, O'Bryon & Schnabel

Marta-Ann Schnabel is a shareholder in the law firm of O'Bryon & Schnabel, PLC. In her twenty plus years of private practice, she has handled various types of litigation, including construction disputes, insurance coverage issues, employment discrimination, health insurance/ ERISA coverage and professional malpractice defense.

She is a 1981 graduate of Loyola Law School, where she served on the National Moot Court Team and was a member of Law Review. She authored, "Sexual Harassment in the Workplace: New Guidelines from the EEOC", Vol. XXVII Loy. Law Rev. 512 (Spring 1981). In 1996, Loyola recognized her many years of work with the Pro Bono Project, Legal Aid and the Legal Services Corporation by honoring her with the Gillis Long Public Service Award.

Ms. Schnabel is the immediate past president of the Louisiana State Bar Association. She became the first woman to serve as President of the Louisiana State Bar Association when she was sworn into office in June of 2006. She previously served on the Board of Governors as President-Elect. Her multi-faceted involvement with the LSBA has included service on the Committee on the Rules of Professional Conduct, the Ethics Advisory Service Committee and the Access to Justice Committee. She was the co-chair of the Practice Improvement and Assistance Committee of the LSBA at its inception, and she remains active on the Committee as its liaison to the Board of Governors and as faculty at its Ethics Schools. She has served as Secretary of the association and was Editor-in-Chief of the Bar Journal from 2001-2003. She received the State Bar Association's President's Award in 1998 and again in 2004.

She is a past President of the New Orleans Bar Association and has represented the city in the American Bar Association House of Delegates. She has served as panel coordinator and speaker for various programs at ABA Annual and Midyear meetings.

Ms. Schnabel has also served as the Treasurer of the New Orleans Legal Services Corporation, a member of the Board of Directors of the Louisiana Association of Defense Counsel and as the Chair of the IOLTA Compliance Committee of the Louisiana Bar Foundation.

She is also active in civic affairs as a member of the Alliance for Good Government, the Chamber of Commerce for New Orleans and the River Region and the Louisiana Association of Business and Industry.

Ranie T. Thompson, Managing Attorney, Southeast Louisiana Legal Services

Ranie Thompson is the managing attorney of the Foreclosure Defense Unit at Southeast Louisiana Legal Services in New Orleans, Louisiana. Her area of practice includes Foreclosure Defense, bankruptcy and general consumer litigation defense. She represents low-income homeowners victimized by predatory lending or otherwise facing the loss of their homes to foreclosure. She joined the firm in 2006 as an Equal Justice Works Katrina Legal Fellow working in the area of healthcare access and government/public benefits. She is the founder of the New Orleans Medical Legal Partnership established in 2007 in partnership with Algiers Community Health Clinic and Tulane University Covenant House Community Clinic (2009).

She has trained attorneys, law students and advocates for social justice, both locally and around the country, on other disaster related issues, foreclosure defense litigation, mortgage and foreclosure rescue fraud and scams, diversity and inclusion in the profession, and various general financial awareness topics. Prior to joining Southeast Louisiana Legal Services, Ms. Thompson was a staff attorney at the ACLU of Mississippi where her work included prisoners' rights litigation and racial discrimination in workplaces. She has also served as a trainer and panelist with various groups, including the LSBA Access to Justice Committee and the Center for Legal Aid Education (Boston, MA), on the various subjects. She is a 1993 graduate of Jackson State University (B.A. degree in Political Science) and a 1996 graduate of the University of Iowa College of Law (J.D.), and currently serves as a member of the Dean's Advisory Council on Diversity.

III. Promotion & Provision Committee

**PROMOTION AND PROVISION FOR THE DELIVERY OF
LEGAL SERVICES COMMITTEE**

January 25, 2013

Agenda

OPEN SESSION

1. Approval of Agenda
2. Approval of minutes of the Committee's meeting of October 1, 2012
3. Discussion of preservation and distribution of Committee presentations
4. Discussion of Committee's evaluations for 2012 and the Committee's goals for 2013
5. Panel presentation and discussion on Succession Planning and Leadership Development for LSC funded programs
 - Jon Asher, Executive Director, Colorado Legal Services
 - David Pantos, Executive Director, Legal Aid of Nebraska
 - Patricia Pap, Executive Director, Management Information Exchange
 - Rhodia Thomas, Executive Director, MidPenn Legal Services
6. Public comment
7. Consider and act on other business
8. Consider and act on motion to adjourn the meeting

**Draft Minutes of the Promotion &
Provision Committee's Open Session
Meeting of October 1, 2012**

Legal Services Corporation
Meeting of the Promotion and Provision for the Delivery of
Legal Services Committee
Open Session
Monday, October 1, 2012

DRAFT MINUTES

Chairman Laurie I. Mikva convened an open session meeting of the Legal Services Corporation's ("LSC") Promotion & Provision for the Delivery of Legal Services Committee ("the Committee") at 3:09 p.m. on Monday, October 1, 2012. The meeting was held at the Hilton Durham Hotel, 3800 Hillsborough Road, Durham, North Carolina 27705.

The following Committee members were present:

Laurie I. Mikva, Chairman
Sharon L. Browne (by telephone)
Victor B. Maddox
Father Pius Pietrzyk
Julie A. Reiskin
John G. Levi, *ex officio*

Other Board members present:

Robert J. Grey, Jr.
Martha L. Minow
Charles N.W. Keckler
Gloria Valencia-Weber
Harry J.F. Korrell, III

Also attending were:

James J. Sandman	President
Rebecca Fertig	Special Assistant to the President
Victor Fortuno	Vice President for Legal Affairs, General Counsel, and Corporate Secretary
Lynn Jennings	Vice President for Grants Management
Jeffrey Schanz	Inspector General
David Maddox	Assistant Inspector General for Management and Evaluation, Office of the Inspector General
Carol Bergman	Director, Office of Government Relations and Public Affairs (GRPA)
Carl Rauscher	Director of Media Relations, GRPA
Janet LaBella	Director, Office of Program Performance
Bernie Brady	LSC Travel Coordinator
Allan Tanenbaum	Non-Director member, LSC Finance Committee
George Hausen	Executive Director, Legal Aid of North Carolina, Inc.
Eric Mittelstadt	Deputy Director, Utah Legal Services
Pat Muller	Information Technology Manager, South Carolina Legal Services
Michael Prince	Information Technology Manager, Legal Aid of Northwest Texas
Sean Driscoll	Legal Aid of North Carolina, Inc.
Madlyn Morreale	Legal Aid of North Carolina, Inc.
Yvette Stackhouse	Legal Aid of North Carolina, Inc.
Hazel Mack	Legal Aid of North Carolina, Inc.
Celia Pistolis	Legal Aid of North Carolina, Inc.
David Sobie	Legal Aid of North Carolina, Inc.
Gray W. Wilson	Legal Aid of North Carolina, Inc.
Andrea Lorey	South Carolina Legal Services
Don Saunders	National Legal Aid and Defenders Association (NLADA)
Chuck Greenfield	National Legal Aid and Defenders Association (NLADA)
Terry Brooks	American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID)
Dennis Stone	Charlotte School of Law

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

Chairman Mikva called the open session meeting to order.

MOTION

Father Pius moved to approve the agenda. Ms. Reiskin seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Ms. Reiskin moved to approve the minutes of the Committee's July 27, 2012 meeting.

Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

The Committee members briefly discussed potential topics for future meetings.

Chairman Mikva welcomed the panel presentation on uses of technology to improve LSC grantee effectiveness and efficiencies. Ms. LaBella introduced the panel members – Ms. Muller, Mr. Prince, Mr. Mittelstadt, and Mr. Hausen.

Ms. Muller began the presentation by discussing the challenges that her program, South Carolina Legal Services (SCLS), faced after a merger of pre-existing programs in 2002, which resulted in SCLS providing service to the entire state. She also discussed the steps that SCLS took to meet the challenges, including how the program is further increasing the efficiencies through technology. Next, Mr. Prince discussed how the use of SharePoint helped to unify the staff of Legal Aid of Northwest Texas and make service delivery more cohesive. He was followed by Mr. Mittelstadt, who discussed how Utah Legal Services (ULS) embarked upon the A2J Author online intake system, as well as how ULS has utilized technology for performance evaluations. Mr. Hausen ended the presentation by discussing how Legal Aid of North Carolina (LANC) uses technology to capture and illustrate outcome measures in order to inform resource allocation and program assessment. The panel members answered questions from the Committee members.

Chairman Mikva invited public comment and received none.

There was no other business to consider.

MOTION

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

VOTE

The motion passed by voice vote.

The open session meeting of the Committee adjourned at 4:27 p.m.

Committee Evaluation

2012 PROMOTION AND PROVISIONS COMMITTEE EVALUATIONS

Members provided very mixed reviews, citing concerns that the Committee doesn't take action, that panels are too large with no time for discussion, minutes don't reflect action items, lack of progress on long-term strategic issues, and a lack of alignment between the committee's goals and actions taken.

Members Liked:

- Opportunity to meet people;
- Panels interesting and informative;
- Meeting with various members of LSC community; hear expertise;
- Panel presentations outstanding; and
- Effective as way for Board to learn about grantees.

Ideas for Improvement Include:

- Smaller panels; more time for deliberation;
- Need to identify specific issues to be studied and make recommendations;
- Need to do more than have panel presentations;
- More active role in making suggestions for future; and
- More input from committee members regarding the agenda.

Future:

- How to maximize representation in court and reduce spending on other activities;
- Focus on Pro Bono Task Force;
- Study feasibility of reactivating Reggie Fellowships; and
- Responsibility for implementing parts of Pro Bono Task Force report and Strategic Plan.

Succession Planning Panel Bios

LSC Board Meeting—January 2013
Promotion and Provision for the Delivery of Legal Services Committee
Succession Planning and Leadership Development Panel

Patricia Pap is the Executive Director of Management Information Exchange (MIE), a national non-profit membership organization whose mission is to promote excellence in legal aid programs across the United States by providing training, publishing and consulting services on management, leadership, supervision, and fundraising topics. She joined the organization in 1997 as its first full time executive director, after serving for many years on its Board of Directors and Journal Committee.

As executive director, Patricia is responsible for MIE's overall growth and programmatic development. Assisted by a Board of Directors comprised of legal aid program managers, she supervises the MIE staff and works with teams of legal aid program staff members from throughout the country who serve as volunteers to lead MIE's national training events. In addition, MIE publishes the highly-regarded MIE *Journal*, and provides consulting services. MIE is actively involved in management consulting and custom training work for individual legal aid programs, on topics such as leadership, supervision, resource development, strategic planning, board of director development, and executive director search. It also maintains a web-based resource library for legal aid managers.

Prior to 1997, Patricia served as Executive Director of Legal Services for Cape Cod and Islands, an LSC-funded program, for fourteen years, and as housing attorney and supervising attorney for Legal Services of Eastern Michigan for six years. During this time period, she also served on the Board of Directors and Civil Council of the National Legal Aid and Defender Association. Patricia received her JD from Case Western University School of Law, and her BA from Mt Holyoke College.

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.

Rhodia D. Thomas is the Executive Director of MidPenn Legal Services (MPLS), which provides civil legal services to clients in 18 counties in central Pennsylvania. She became the executive director in late 2003, after serving as the program's interim director.

Rhodia has received several awards including the PLAN Excellence Award, the Outstanding Minority Scholar Award, Women of Excellence Award, Adult Achievers Award sponsored by the Camp Curtin YMCA, and in 2002 she was named as one of **50 Minorities of Influence** by the American Lawyer Media, publishers of the Legal Intelligencer and Pennsylvania Law Weekly. Rhodia is active in the Pennsylvania Bar Association (PBA); she currently serves as a member of its Constitutional Review Committee and, until recently, she served as Co-Chair of the PBA's Access to Justice Committee. She is also a member of the Minority Bar Committee and for three years she co-chaired the MBC's *Diversity Summit*. Rhodia is also a member of the PBA's Immigration Law, and Legal Services to the Public Committees. In July 2012, Rhodia was elected to the Board of the Pennsylvania Bar Institute, and currently she serves as President of the Pennsylvania Project Directors Association.

She graduated *magna cum laude* from Syracuse University, with a B.S. in Education, and received her J.D. from Widener University School of Law.

Dave Pantos is the Executive Director of Legal Aid of Nebraska (LAN). He has been a licensed attorney for 16 years, over 14 of which has been in the area of poverty law. Prior to becoming LAN's executive director in January of 2009, Dave was LAN's Director of Litigation for over two years.

In addition to his role as Executive Director at LAN, Dave is the Board Chairperson of the Domestic Violence Council of Greater Omaha, and a Board member of the Nonprofit Association of the Midlands. Dave also serves on several Nebraska Supreme Court Committees and Commissions, including the Commission on Children in the Courts and the Minority Justice Committee. He also served on the national Legal Services Corporation Pro Bono Task Force and on the American Bar Association Pro Bono advisory group. Dave also is on the national Management Information Exchange Journal editorial committee. Locally, Dave pens the *In the Trenches* column for the Omaha Daily Record.

Before Dave moved to Nebraska in 2006, he was the statewide supervisor of Legal Services of New Jersey's Supplemental Security Income Project. Dave received his JD and Masters of Science in Environmental Science at Indiana University in Bloomington in 1996, and acquired his BA in Political Science and History at Rutgers College in 1992.

**IV. Operations & Regulations
Committee**

OPERATIONS & REGULATIONS COMMITTEE

January 25, 2013

Agenda

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's meeting September 30, 2012
3. Consider and act on rulemaking on enforcement mechanisms
 - Mark Freedman, Senior Assistant General Counsel
 - Matthew Glover, Associate Counsel to the Inspector General
 - Public comment on this rulemaking
4. Consider and act on initiating rulemaking on representation of criminal defendants in tribal courts
 - Mark Freedman, Senior Assistant General Counsel
 - Public comment on this request to initiate rulemaking
5. Consider and act on initiating rulemaking on the findings and recommendations of the Pro Bono Task Force with respect to the Private Attorney Involvement requirement
 - Mark Freedman, Senior Assistant General Counsel
 - Public comment on this request to initiate rulemaking
6. Discussion of Committee's evaluations for 2012 and the Committee's goals for 2013
7. Public comment
8. Consider and act on other business
9. Consider and act on adjournment of meeting

**Draft Minutes of the Operations &
Regulations Committee's Open Session
Meeting of September 20, 2012**

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

DRAFT MINUTES

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:

Minutes: September 20, 2012: Open Session Meeting of the Operations and Regulations Committee
Page 1 of 4

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:

Chairman Keckler noted the presence of a quorum and called the open session 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. Chairman Keckler invited public comment on the FNPR and heard from Mr. Greenfield.

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

**Draft Minutes of the Operations &
Regulations Committee's Open Session
Meeting of September 30, 2012**

Legal Services Corporation
Meeting of the Operations and Regulations Committee
Open Session
Sunday, September 30, 2012

DRAFT MINUTES

Chairman Charles N.W. Keckler convened an open session meeting of the Legal Services Corporation's ("LSC") Operations and Regulations Committee ("the Committee") at 2:25 p.m. on Sunday, September 30, 2012. The meeting was held at the Hilton Durham Hotel, 3800 Hillsborough Road, Durham, North Carolina 27705.

The following Committee members were present:

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:

Sharon L. Browne (by telephone)
Victor B. Maddox
Father Pius Pietrzyk
Julie A. Reiskin
Martha L. Minow

Also attending were:

James J. Sandman	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
David Richardson	Comptroller & Treasurer
Jeffrey E. Schanz	Inspector General
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the Inspector General (OIG)
Matthew Glover	Associate Counsel, OIG
David Maddox	Assistant Inspector General for Management and Evaluation, OIG
Ronald "Dutch" Merryman	Assistant Inspector General for Audit, OIG
Carol Bergman	Director, Office of Government Relations and Public Affairs (GRPA)
Carl Rauscher	Director of Media Relations, GRPA
Marcos Navarro	Design Director, GRPA
Janet LaBella	Director, Office of Program Performance
Bernie Brady	LSC Travel Coordinator
Herbert Garten	Non-director member, LSC Institutional Advancement Committee
Frank Strickland	Non-director member, LSC Institutional Advancement Committee
Chuck Greenfield	National Legal Aid and Defenders Association (NLADA)
Terry Brooks	American Bar Association

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

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

MOTION

Board Chairman Levi moved to approve the agenda. Mr. Korrell seconded the motion.

VOTE

The motion passed by voice vote.

Chairman Keckler noted that there were no minutes for the Committee's approval.

Chairman Keckler invited Mr. Freedman to introduce possible revisions to the Corporation's bylaws for implementation of the Continuity of Operations Plan (COOP). Mr. Freedman answered Committee members' questions. The Committee members offered several amendments.

MOTION

Ms. Mikva moved to recommend that at the next telephonic or quarterly meeting, when the Board is presented with a clean copy of the COOP, it adopt the amended COOP. Mr. Korrell seconded the motion.

VOTE

The motion passed by voice vote.

Next, Mr. Freedman provided an overview of the comments received on the Further Notice of Proposed Rulemaking (FNPR) on grant termination procedures, enforcement mechanisms, and suspension procedures. Chairman Keckler invited questions and comments from the Committee members. Mr. Glover provided comments on behalf of the OIG. Chairman Keckler then invited public comments and heard from Mr. Greenfield and Mr. Brooks.

There was no other business to consider.

MOTION

Mr. Grey moved to adjourn the meeting. Board Chairman Levi seconded the motion.

VOTE

The motion passed by voice vote.

The open session meeting of the Committee adjourned at 4:10 p.m.

Rulemaking Enforcement Mechanisms



TO: Operations and Regulations Committee

FROM: Mark Freedman, Senior Assistant General Counsel
Kara Ward, Assistant General Counsel

THROUGH: Victor M. Fortuno, General Counsel

SUBJECT: Rulemaking Overview for the January 2013 Board Meeting

DATE: January 9, 2013

Management is seeking Board input on three separate rulemaking activities during the January 2013 meeting. The first rulemaking topic presented is the conclusion of the rulemaking process for new and enhanced enforcement mechanisms. The Board is presented with drafts of the Final Rule for feedback prior to publication as final in the Federal Register.

The second rulemaking topic presented is a request for the Board to approve initiation of rulemaking to revise the existing regulations on tribal court representations to reflect new statutory authority for recipients to use LSC funds to represent any eligible client in a criminal matter before a tribal court.

The third rulemaking topic presented is a request for the Board to approve initiation of rulemaking in response to the findings and recommendations of the Pro Bono Task Force's October 2012 Report with respect to the Private Attorney Involvement regulation.

1. Enforcement Mechanisms, 45 C.F.R. Parts 1606, 1614, 1618, and 1623

This rulemaking is presented in its intended final form for publication in the Federal Register. It will be effective, with Board approval, 30 days after publication. The revised rules enhance options available to the Corporation to induce compliance and to sanction violations by:

- (a) Creating a new enforcement action known as a "limited reduction of funding";
- (b) Providing a new process by which recipients may cure violations through written compliance agreements (when appropriate);
- (c) Enhancing the procedures for an informal conference to resolve issues related to a violation;

- (d) Authorizing an extension in the duration of non-audit based funding suspensions from 30 days to 90 days; and
- (e) Permitting the Corporation to immediately add special grant conditions based on findings of violations.

The revised rule also makes a number of technical and stylistic improvements in these rules.

2. Representation of Criminal Defendants in Tribal Courts, 45 C.F.R. Part 1613

This request to commence the rulemaking process addresses a new issue. A law enacted in 2010 changed the LSC Act to permit grant recipients to use LSC funds not only for eligible clients charged with a misdemeanor in tribal courts, but also for eligible clients facing more serious charges, including felonies, in tribal courts. A corresponding easing of the restrictions in LSC's current regulations on the use of funds in the tribal courts has the support of Management. It remains for the Board to determine the best process to bring about alignment of the statutory and regulatory provisions on representation in criminal matters before tribal courts.

3. Private Attorney Involvement, 45 C.F.R. Part 1614

This request to commence the rulemaking process is made in order to begin consideration of the Pro Bono Task Force's findings and recommendations that the Corporation "revise its Private Attorney Involvement (PAI) Regulation to encourage pro bono."



TO: Operations and Regulations Committee

FROM: Mark Freedman, Senior Assistant General Counsel
Kara Ward, Assistant General Counsel

SUBJECT: Enforcement Mechanisms Rulemaking Overview

DATE: January 8, 2013

Attached for your consideration please find the enforcement mechanisms Final Rule for publication in the Federal Register and a redline comparing the final text of the amended rules with the text of the current rules. The Final Rule amends 45 CFR Parts 1606, 1614, 1618, and 1623. The Operations and Regulations Committee will have consideration of the Final Rule on the January 25, 2013, agenda. The Final Rule incorporates a number of suggestions from the last Committee meeting and from the comments submitted. Additionally, the Final Rule makes a number of technical and stylistic improvements to the rules. All of the changes are discussed in the preamble.

This package includes the following materials:

1. Final Rule:
This is the intended publication as it will appear in the Federal Register if approved by the Board, subject to any changes by the Committee or the Board. The "Supplementary Information" includes important interpretive guidance that outlines the purpose for the rulemaking and a section-by-section analysis of changes to the current rules.
2. Redline of the Final Rule:
For the Board's ease of reference, the redline comparison of the current rules and the final rules is provided. It does not reflect the incremental changes made to the document during the two notice and comment periods.

Procedural History

On January 21, 2012, LSC published a Notice of Proposed Rulemaking (NPRM) in the Federal Register (77 Fed. Reg. 4,749). Comments were received and LSC published a summary and analysis of the comments on the LSC website on June 21, 2012. In response to the comments received, LSC revised and re-published the rule for further comment on August 7, 2012 through a Further Notice of Proposed Rulemaking (FNPRM) (77 Fed. Reg. 46,995). LSC similarly analyzed the comments on the FNPRM and posted a summary, analysis and Management

response to the comments on the LSC website on September 18, 2012, and December 19, 2012. The Committee considered the progress of the rulemaking and the comments at meetings throughout 2011 and 2012.

Per the LSC Rulemaking Protocol (67 Fed. Reg. 69,762), a draft of the Final Rule is ready for consideration by the Committee and the Board. If approved, it will be published in the Federal Register and will be effective 30 days after publication.

Summary of Major Material Changes and Additions to the Rule

a. New enforcement action: “limited reduction of funding.”

The Final Rule includes a new enforcement action available to LSC to respond to instances of substantial violation (as defined in the final rule) that reduces a recipient’s current year funding by less than five percent. This limited reduction of funding provides a streamlined process that excludes the formal hearing procedures required for terminations but provides for both an informal conference for possible conciliation and final review by the LSC President.

b. Informal conference and new compliance agreement option.

Board members suggested improving the options for dispute resolution within the enforcement process. The Final Rule enhances the existing informal conference process for terminations, debarments, and, now, limited reductions of funding. It also includes a new option for resolving substantial non-compliance through implementation of a written agreement for corrective actions when LSC determines that doing so would be appropriate. Satisfactory completion of the corrective actions results in a withdrawal of the proposed sanction. Otherwise LSC can proceed with the proposed sanction, subject to the recipient’s remaining options for further review.

c. Extension of the maximum duration of a funding suspension to 90 days.

The Final Rule extends the maximum duration of a non-audit based suspension of funding from 30 days to 90 days. A new appeal process for review by the LSC President has been added for suspensions that last longer than 30 days.

d. Immediate special grant conditions.

The Final Rule provides authority for LSC to add special grant conditions to an ongoing grant or contract for legal assistance based on a finding of a violation of the LSC requirements.

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LEGAL SERVICES CORPORATION

45 CFR Parts 1606, 1614, 1618, and 1623

Limited Reductions of Funding, Termination, and Debarment Procedures; Recompensation; Enforcement; Suspension Procedures; Private Attorney Involvement.

AGENCY: Legal Services Corporation

ACTION: Final Rule

Summary:

This Final Rule amends the Legal Services Corporation's regulations on enforcement procedures through the addition of options for limited reductions of funding, expansion of non-audit based suspensions for up to ninety days, and immediate special grant conditions for compliance issues. The Final Rule provides updates and enhancements to the rules regarding enforcement generally, terminations, debarments, and suspensions. It also provides a technical conforming update to a cross-reference in the private attorney involvement regulation.

Dates:

This rule is effective as of [insert date of publication].

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Supplementary Information:

I) Procedural Background

On January 31, 2012, the Legal Services Corporation (LSC) published in the Federal Register at 77 FR 4749 a Notice of Proposed Rulemaking (NPRM) proposing changes to LSC's enforcement mechanisms. On August 7, 2012, LSC published in the Federal Register at 77 FR 46995 a Further Notice of Proposed Rulemaking (FNPRM) expanding on the NPRM. LSC is now publishing final rules to conclude this rulemaking.

LSC undertook this rulemaking to add three new enforcement options to the LSC regulations regarding grants for the provision of legal assistance:

- 1) a new "limited reduction of funding" that enables LSC to respond quickly to instances of substantial violation of LSC requirements through funding reductions of less than five percent using more simple procedures than for terminations of five percent or greater;

- 2) suspensions for non-audit based compliance issues that could last for up to ninety days, an increase from thirty days in the previous rule; and
- 3) special grant conditions regarding compliance issues that LSC could add immediately to a current grant.

In the course of the rulemaking, LSC developed new administrative procedures to enhance the opportunities for informal resolution when LSC proposes to undertake a limited reduction of funding, a termination in whole or in part, or a debarment. The rule already provided for informal resolution through an informal conference with opportunities for settlement or compromise. The rule has enhanced the informal conference and added procedures to provide for resolution of the matter through prompt corrective action agreements, when appropriate.

This rulemaking also clarifies existing regulations and makes conforming changes to the rules in order to accommodate the new process and procedures indicated. All of the comments and related memos submitted to the LSC Board regarding this rulemaking are available in the open rulemaking section of LSC's website at www.lsc.gov.

<http://www.lsc.gov/about/regulations-rules/open-rulemaking>

After the effective date of the rule, those materials will appear in the closed rulemaking section.

<http://www.lsc.gov/about/regulations-rules/closed-rulemaking>

II) General Authorities, Impetus for Rulemaking, and Existing Regulatory Compliance Mechanisms

The LSC Act provides general authority to the Corporation "to insure the compliance of recipients and their employees with the provisions of [the Act] and the rules, regulations, and guidelines promulgated pursuant to [the Act]." 42 U.S.C. 2996e(b)(1)(A). LSC's principal regulation discussing general enforcement authority and procedures is the Enforcement Procedures regulation at 45 CFR part 1618. LSC uses a variety of enforcement tools, formal and informal, to ensure compliance. Among these are informal consultations and compliance training, on-site Case Service Report/Case Management System reviews, the imposition of Required Corrective Actions (RCAs), and the imposition of Special Grant Conditions (SGCs) at the beginning of a grant award period or at grant renewal. Several enforcement tools involving suspending or reducing funding to a recipient to address significant non-compliance are provided in LSC-adopted regulations. LSC has adopted grant termination procedures (45 CFR part 1606) that provide for the termination of funding in whole or part in cases of a recipient's substantial noncompliance with LSC statutory or regulatory requirements and other policies, instructions, or grant terms and conditions. LSC has also adopted suspension procedures (45 CFR part 1623) and disallowed-cost procedures (45 CFR part 1630). Lastly, part 1606 provides authority for LSC to debar recipients from eligibility to receive future grants.

LSC amended the part 1606 termination procedures in 1998 and created a separate provision for reductions of funding of less than five percent, which are not

considered terminations and not subject to the full set of procedures that apply to terminations. The 1998 amendments to the rule required, however, that to reduce funding to a recipient by less than five percent, LSC would have to establish additional procedures by rulemaking. 45 CFR 1606.2(d)(2)(v). LSC commenced this rulemaking to establish those procedures.

The majority of LSC recipients are in substantial compliance with LSC requirements most of the time. When non-compliance occurs, recipients almost always work diligently and cooperatively with LSC staff to come promptly into compliance, but there have been exceptions and situations in which LSC has felt the need for the kind of enforcement tools covered by this rulemaking.

This rulemaking also addresses a problem in the previous rules regarding LSC's ability to take timely actions. LSC can impose suspensions after as little as eleven days of process, but the previous rule limited suspensions to thirty days (other than audit-based suspensions). The next enforcement option available to LSC was terminations, which require five months or more of procedures if the recipient uses all available levels of review. Similarly, disallowed costs may be available to recover improperly spent funds, although that process is designed for recovery rather than enforcement and sanction. Also, disallowed costs can take over five months to complete (except for disallowed costs of less than \$2,500). This rulemaking provides for suspensions of funding for up to ninety days, for limited reductions of funding that can be implemented in approximately eighty days, and for special grant conditions that can be added immediately to an existing grant.

This rulemaking also addresses concerns expressed by the Government Accountability Office (GAO) in its report, *Legal Services Corporation: Improved internal controls needed in grants management and oversight*, GAO-08-37 (December 2007). In that report, the GAO opined that LSC has "limited options for sanctioning or replacing poor-performing recipients." GAO-08-37 at 17. The existing enforcement mechanisms available to LSC are best suited to situations involving numerous and/or very significant violations that merit severe actions such as terminations, or to situations in which compliance issues are technical or minor and can be resolved through corrective actions, grant conditions, and similar actions. LSC has not had enforcement mechanisms well suited to violations or compliance issues in an intermediate range (e.g., material but not extreme, or multiple but not profuse) in situations where a recipient does not voluntarily take corrective action in a timely manner. Furthermore, disallowed costs are not a good substitute for an intermediate range enforcement mechanism. The amount of funds in question is not necessarily proportional to the severity of the violation. Minor violations could have large associated costs while major violations could have relatively small associated costs.

LSC significantly revised LSC's enforcement rules in 1998 in response to Congressional changes to the governing law. Prior to 1996, section 1011 of the LSC Act provided minimum process requirements for suspensions over thirty days, terminations, and denials of refunding that included hearing rights and review by independent hearing examiners. 42 U.S.C. 2996j. LSC implemented these statutory

requirements in 1976 and 1978 through the original enforcement regulations: part 1618 (General enforcement thresholds), part 1606 (Terminations and denials of refunding), and part 1623 (Suspensions). In 1996, Congress suspended section 1011 via riders to the annual LSC appropriation, which have been reincorporated every year thereafter, including some modifications in 1998.

For the purposes of the funding provided in this [FY 1996 Appropriations] Act, rights under sections 1007(a)(9) [interim funding for refunding applicants] and 1011 of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(9) and 42 U.S.C. 2996j) shall not apply.

Pub. L. 104-134, § 503(f), 110 Stat. 1321 (1996) (FY 1996); Pub. L. 104-208, § 501(b), 110 Stat. 3009 (1996) (FY 1997) (reiterating the FY 1996 language). For FY 1998, Congress reiterated the FY 1996 language and further elaborated that LSC “may terminate” a grant or contract if LSC finds “that the recipient has failed to comply with any requirement of the Legal Services Corporation Act (42 U.S.C. 2996 et seq.), this [appropriations] Act, or any other applicable law relating to funding for the Corporation” Pub. L. 105-119, §§ 501(b) and (c), 111 Stat. 2440 (1997) (FY 1998). Congress has incorporated that language by reference in every annual LSC appropriation since 1998. Congress also mandated in 1996 and thereafter that LSC have the option to suspend funding to a recipient, in full or in part, if the recipient fails to have an acceptable audit. Audit-based suspensions last until completion of an acceptable audit. Pub. L. 104-134, § 509(c), 110 Stat. 1321 (1996) (FY 1996) (incorporated by reference thereafter).

LSC implemented these statutory changes by revising 45 CFR parts 1606 and 1623. 63 FR 64636 (1998) (parts 1606 and 1625), 63 FR 64646 (1998) (part 1623). LSC explained that:

the new law in the appropriations act emphasizes a congressional intent to strengthen the ability of the Corporation to ensure that recipients are in full compliance with the LSC Act and regulations and other applicable law. See H. Rep. No. 207, 105th. Cong., 1st Sess. 140 (1997). Accordingly, under this rule, the hearing procedures in part 1606 have been streamlined. The changes are intended to emphasize the seriousness with which the Corporation takes its obligation to ensure that recipients comply with the terms of their grants and provide quality legal assistance. At the same time, the Corporation intends that recipients be provided notice and a fair opportunity to be heard before any termination or debarment action is taken.

63 FR at 64637 (preamble to revised parts 1606 and 1625). LSC further elaborated in the preamble to the rulemaking that:

[t]he legislative intent underlying Sections 501(b) and (c) of the Corporation’s FY 1998 appropriations act was to enable the Corporation to

streamline its due process procedures in order to ensure that recipients are in full compliance with LSC grant requirements and restrictions.

Id. at 64640. LSC carefully balanced the concerns for ongoing client services and recipient rights with the clear direction from Congress to enhance accountability and oversight of recipients' use of LSC funds. The current rulemaking is designed to build upon, but not fundamentally alter, the rationale for the 1998 rulemaking.

The changes in this final rule reflect LSC's obligation to safeguard public funds appropriated by Congress for civil legal aid by ensuring compliance with LSC rules, restrictions, and requirements. These additions to the enforcement mechanisms are consistent with LSC's understanding of Congress's intent to strengthen LSC's enforcement mechanisms, while carefully accounting for the importance of continued delivery of legal services and the rights of LSC recipients.

III) Summary of Existing Compliance Tools Not Covered by the Regulations

LSC uses a variety of non-regulation based tools to track and ensure compliance. Among these are informal consultations and compliance training, on-site Case Service Report/Case Management System reviews, the imposition of Required Corrective Actions (RCAs), and the imposition of Special Grant Conditions (SGCs) at the beginning of a grant year.

LSC relies primarily on RCAs to remedy compliance problems. The LSC Office of Compliance and Enforcement (OCE) estimates that in approximately 90 percent of cases in which RCAs are imposed, recipients implement the RCAs on a timely and satisfactory basis. In approximately ten percent of the cases, however, a recipient fails to implement the required corrective actions in a timely or satisfactory manner. In some instances in which recipients have failed to implement RCAs in a timely or satisfactory manner, LSC has imposed SGCs. Although SGCs may be substantively identical to the measures contained in RCAs, SGCs elevate the matter by formally incorporating the conditions into the recipient's grant documents and ensuring that the recipient's Board Chair, who has to sign the SGCs, is aware of an ongoing problem. In recent years, LSC has also used short-term funding to encourage compliance by providing a grant or successive grants for less than a year (*e.g.*, month-to-month).

IV) Summary of Procedures for Compliance Tools

Members of the LSC Board raised concerns that the parallel and interrelated procedures for different enforcement mechanisms could be confusing. For clarification, the table below summarizes the enforcement actions provided for in the rules and the respective procedures for each. This table uses the revised nomenclature provided in the final rule. The prior suspension and termination rules contained inconsistencies in the terms used for each stage of the process; those terms have been standardized in the final rule.

Enforcement Mechanisms Final Rule
January 8, 2013, Draft

	<u>Limited Reductions</u>	<u>Termination</u>	<u>Debarment</u>	<u>Suspension</u>
	§ 1606.2(f) Less than 5 Percent	§ 1606.2(l) 5 percent of more	§ 1606.2(c)	§ 1623.2(b)
Type of Violation	Substantial violation § 1606.2(k)	Substantial violation § 1606.2(k) Substantial failure § 1606.3(a)(2)	Good cause § 1606.4(b)	Substantial violation § 1623.3(a) § 1606.2(k) Prompt action is necessary § 1623.3(a) Failure of an audit § 1623.3(b)
	Preliminary Determination § 1606.6(a) Compliance Agreement (if available and agreed to) § 1606.7(a) Submission of Written Materials in Opposition to the Preliminary Determination (if no compliance agreement) § 1606.7(b) Informal Conference § 1606.7(b)–(e) Draft Final Decision § 1606.7(f) Hearing § 1606.8 Recommended Decision § 1606.9 Review by the LSC President § 1606.10 Final Decision § 1606.10(e)	Preliminary Determination § 1606.6(a) Compliance Agreement (if available and agreed to) § 1606.7(a) Submission of Written Materials in Opposition to the Preliminary Determination (if no compliance agreement) § 1606.7(b) Informal Conference § 1606.7(b)–(e) Draft Final Decision § 1606.7(f) Hearing § 1606.8 Recommended Decision § 1606.9 Review by the LSC President § 1606.10 Final Decision § 1606.10(e)	Preliminary Determination § 1606.6(a) Compliance Agreement (if available and agreed to) § 1606.7(a) Submission of Written Materials in Opposition to the Preliminary Determination (if no compliance agreement) § 1606.7(b) Informal Conference § 1606.7(b)–(e) Draft Final Decision § 1606.7(f) Hearing § 1606.8 Recommended Decision § 1606.9 Review by the LSC President § 1606.10 Final Decision § 1606.10(e)	Proposed Determination § 1623.4(b) Prompt Corrective Action § 1623.2(b) Submission of Written Materials in Opposition to the Proposed Determination § 1623.4(f) Informal Meeting § 1623.4(c)–(f) Final determination § 1623.4(f) Review by the LSC President (for a suspension lasting more than 30 days not based on an audit failure) § 1623.4(h) Suspension Appeal Decision § 1623.4(h)(3)
Procedure				

V) Commentary on Rulemaking Process and Comments Received

LSC received nineteen comments on the NPRM and eight comments on the FNPRM. All of the comments and LSC's analysis of them are posted on the rulemaking page of www.lsc.gov.

<http://www.lsc.gov/about/regulations-rules>

The most extensive comments on both proposals were submitted by the LSC Office of Inspector General (OIG), the American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID), and the National Legal Aid and Defender Association (NLADA). Colorado Legal Services and the Northwest Justice Project (NJP) also submitted detailed comments. The other comments generally endorsed the NLADA comments. Only the OIG fully supported the rulemaking, although the OIG recommended removing any time limit on suspensions and expressed concerns that the requirements for the new special grant conditions were too restrictive. SCLAID supported the rulemaking, but strongly recommended significant enhancements to standards and procedures similar to those recommended by NLADA. NLADA, and most of the other comments, opposed the rulemaking and recommended significant enhancements to standards and procedures if it proceeded.

a. New Compliance Tools

The NPRM proposed a new set of procedures for limited reductions of funding based on the existing procedures for suspensions, which provide for one level of review through an informal meeting. In response to comments that this did not provide sufficient process, LSC revised the proposal in the FNPRM in two ways. First, the same process is used at the initial stage for terminations and for limited reductions. Thereafter, limited reductions may be appealed to the LSC President using procedures based on the disallowed cost appeal procedures in 45 CFR part 1630. Some comments also raised similar concerns for suspensions, especially if they could last for up to ninety days. In response, the final rule also adds the same appeal process for suspensions once they extend beyond thirty days (thirty-day suspensions have always been permitted without further appeal). The NPRM proposed allowing LSC to impose SGCs immediately during a grant term rather than waiting for a new grant award or renewal. The OIG's comment expressed concern that the SGC language might appear to constrain some of LSC's authority, and other comments indicated concerns that the SGC language was too vague. In the FNPRM, LSC revised the language to clarify that it applies to the kinds of situations in which LSC has investigated a matter and developed RCAs. LSC may immediately impose SGCs that incorporate those RCAs into the grant documents.

b. Standards and Procedures

The comments that recommended enhancements in the standards and procedures were not limited to the enforcement actions in the proposed rulemaking. Rather, they recommended revisions that would significantly change the rules as they have existed since 1998. In many cases, they would return to the pre-1998 standards,

such as requiring non-LSC, independent hearing examiners, or exceed those standards, such as an increased intent requirement and a safe harbor for reliance on reasonable alternate interpretations of the LSC rules. LSC commenced this rulemaking to enhance enforcement options within the standards and procedures adopted in the 1998 rulemaking to respond to Congress's changes in the enforcement requirements of the LSC Act. The final rule does not adopt the many suggestions in the comments to change that carefully constructed enforcement framework. The OIG also suggested adding a requirement for publication of all final decisions to address due process concerns in the comments through transparency for those final actions. Rather than incorporating that suggestion as a regulatory requirement, LSC will address it in the policies and procedures for enforcement actions.

c. Informal Conference and Prompt Corrective Actions

The final rule makes a number of revisions to increase the focus on attempts to resolve the violation at or before the informal conference. The final rule adds to the notice of the preliminary determination a requirement for summarizing prior attempts at resolution. The previous rule required that the same LSC employee who issued the notice would hold the informal conference. The final rule permits LSC to designate any senior employee to hold the informal conference, which provides LSC with more flexibility to set a dispute resolution tone. The final rule also adds "implementation of corrective actions" as an example of the types of settlement or compromise envisioned for the informal conference.

The final rule includes a new alternative strategy for informal resolution prior to the implementation of an enforcement action. LSC has the option of notifying the recipient that it can avoid the enforcement action through corrective action, if appropriate. The recipient may elect to accept that corrective action through timelines and implementation plans acceptable to LSC and documented in a compliance agreement; LSC could hold the enforcement action in abeyance so long as the recipient honors the agreement. If the recipient completes the corrective actions to LSC's satisfaction (in both substance and timeliness), then LSC would withdraw the preliminary determination without implementing the enforcement action. If LSC at any time decides that the recipient has failed to adhere to the agreed-upon corrective action plan, including failing to act in accordance with the established timeline, then LSC could continue with the enforcement process.

d. Suspension Appeals

In response to the comments received, LSC has included in the final rule an appeals process for suspensions that last over thirty days. The appeals process is based on the appeals process for limited reductions of funding. As with suspension decisions, the timeframe is short to enable LSC to resolve the appeal quickly. Unlike other enforcement actions, suspensions are enforced during the appeal period.

e. Scope of Enforcement Action

The final rule discusses the scope of partial terminations and limited reductions

of funding by using the language of the previous rule regarding the level of financial assistance provided by the Corporation to a recipient pursuant to a grant or contract. 45 CFR 1600.1 defines “financial assistance” as the “annualized funding from the Corporation granted under section 1006(a)(1)(A) for the direct delivery of legal assistance to eligible clients.” These grants are for the provision of general-purpose legal assistance in a geographic area or to a specific population. Currently, LSC provides these grants for three types of service areas: basic field, Native American, and migrant. When LSC awards multiple service areas to a recipient (*e.g.*, both a basic field service area and migrant service area), it typically does so through a single grant or contract. Part 1606 enforcement actions affect the level of financial assistance, which will include all of the 1006(a)(1)(A) service areas.

Other LSC grants, under sections 1006(a)(1)(B) or (a)(3) of the LSC Act, are not subject to these procedures. Rather, LSC may provide for terminations or other enforcement actions for those grants pursuant to policies and procedures specific to those grant programs. For example, funding for Technology Initiative Grants is project-based and specifically tied to acquisitions, tasks, and timelines.

The final rule implements the NPRM provision that limited reductions apply only to one grant year. The final rule continues the provisions of the previous rule that a partial termination presumptively applies to only one grant year, but that LSC can specify a longer period up to the entire funding term.

VI) Section-by-Section Analysis

Part 1606—Termination, Limited Reduction of Funding, and Debarment Procedures; Recompensation

§ 1606.1 Purpose

Section 1601.1(b) contains two additions. First, the phrase “proportional to the proposed action” is added to modify “timely and fair due process procedures.” This addition corresponds to the addition of procedures for limited reductions of funding of less than five percent, which do not include a hearing before a hearing officer. The rule provides two sets of overlapping procedures, one for debarments and terminations of funding (five percent and greater) and the other for limited reductions of funding (less than five percent). Second, the phrase “or to impose a limited reduction of funding” is added to the list of remedies available under the rule.

A new section 1601.1(d) reflects a reorganization of the rule in the interest of clarity. It relocates the previous section 1606.2(c), without change, which described provisions of other LSC regulations that involve funding changes but are not subject to the termination procedures. This relocation emphasizes and clarifies that the indicated situations are not subject to the actions under part 1606. A corresponding change to matching language in 45 CFR part 1614 is included in this final rule.

§ 1606.2 Definitions

This section has substantive and structural changes. All of the definitions now appear alphabetically.

The term “Corporation” is defined in 45 CFR 1600.1 to mean the Legal Services Corporation. The definition has been expanded here to provide that decisions of the Corporation, such as initiating a part 1606 proceeding, must be made by an individual acting at the level of, or senior to, an LSC office director. A deputy director could make these decisions if he or she is acting with the authority of the director, such as when the director’s position is vacant, or the director is unavailable due to an illness and the deputy director has taken over the relevant responsibilities. The FNPRM had proposed that decisions could be made by deputy directors. The final rule narrows the circumstances in which deputy directors can act, in part responding to concerns raised by a commenter.

“Days” is added as a defined term to mean calendar days as computed under the Federal Rules of Civil Procedure, unless business days are specified, in which case Saturdays, Sundays, and legal holidays recognized under those rules are excluded. The rule had not previously defined days, which could have caused confusion regarding deadlines. In particular, some deadlines were five days, which in some cases could be as little as two business days. All time periods below fifteen days are changed in the rule to business days.

“Funding term” is added as a defined term to mean the time period for an award of financial assistance for a service area as that term is used in grant-making. The funding term is the longest period between competitions for a service area. Under 45 CFR part 1634, LSC can award a section 1006(a)(1)(A) grant or contract for up to five years, which is the funding term. LSC provides section 1006(a)(1)(A) awards for a maximum funding term, which is normally no greater than three years. Within the funding term, LSC provides funding for grant award periods of no more than one year, which can be renewed for additional grant award periods.

“Limited reduction of funding” is added as a defined term for reductions of funding of less than five percent, which the previous rule excluded from the definition of terminations. Unlike partial terminations, limited reductions apply only to the current grant year.

“LSC requirements” is added as a defined term in 45 CFR part 1618 to capture the full list of statutory, regulatory, and other requirements that apply to LSC grants or contracts for financial assistance under the LSC Act. Parts 1606 and 1623 of the previous rules repeatedly referenced the list of sources specified in this definition. For both clarity and consistency, the term is now defined using the language appearing in the previous rules and is cross-referenced in both parts 1606 and 1623.

“Receipt” of materials is added as a defined term to provide clarity in calculating deadlines under the rule. Formal service of process is not required. Service must be

sufficient to ensure that both LSC and the recipient are fully aware of the proceedings and the actions taken by both entities at each stage.

The definition of “recipient” is functionally unchanged from the previously published version of this rule, which reiterated the definition at 45 CFR 1600.1. The final rule replaces that reiteration with a simple cross-reference.

The term “substantial noncompliance” is clarified in this rule. The term is defined to mean either a substantial violation of the LSC requirements or a substantial failure to provide high quality, economical, and effective legal assistance.

A definition of “substantial violation” has been added using the functional definition from section 1606.3(a) without any material modifications that would change its meaning or application from the previous rule.

The definition of “termination” has been updated to reflect new definitions in the rule and relocation of the cross-references to other regulations; no material modifications that would change its meaning or application from the previous rule have been made.

A definition of “violation” has been added to make clear that the scope of violations at issue under this rule is limited to the LSC requirements.

§ 1606.3 Grounds for a termination or a limited reduction of funding.

The title of this section is updated to add limited reductions of funding.

Section 1606.3(a) has minor nomenclature changes to conform to the new definitions and terms, including the new definition of “substantial violation,” but without any material modifications that would change its meaning or application from the previous rule. The definition of a “substantial failure” remains in section 1606.3(a)(2) with two adjustments: 1) the LSC appropriations have been added as a measure of performance, and 2) the term “guidance” is changed to “guidelines or instructions” consistent with the use of those terms in lieu of “guidance” throughout the previous and revised rules.

Section 1606.3(b) is added to specify that LSC may impose a limited reduction of funding for substantial violations, but not substantial failures, when LSC determines that a termination, in whole or in part, is not warranted. As with terminations, LSC can base a limited reduction of funding only on substantial violations occurring within the past five years.

Section 1606.3(c), the former subsection (b), is changed to add limited reductions of funding. The requirements for a “substantial violation” are moved, without material modifications that would change their meaning or application from the previous rule, to the new definition of “substantial violation.” As proposed in the NPRM those same criteria apply to the determination of the magnitude of a proposed termination or limited reduction of funding. LSC stated in the NPRM that consideration of these factors was already implicit in considerations of how much funding should be affected by a proposed enforcement mechanism. SCLAID’s comments recommended that LSC add an entire

new section and criteria for determinations of magnitude, including the impact on client services and other funding for the recipient. The final rule does not do so because the magnitude of an enforcement action should relate directly to the magnitude of the violation and deterrence of future violations. LSC has general discretion to consider the totality of the situation when deciding how to proceed with an enforcement action to foster ongoing compliance while minimizing disruption of client services.

§ 1606.4 Grounds for debarment.

This section does not include any material modifications that would change its meaning or application from the previous rule. All changes are technical adjustments.

The language of section 1606.4(b)(4) is modified to clarify that it applies to any arrangements that are covered by debarments, not only subgrants or subcontracts, and that reference to a debarred “IPA,” which is undefined in the previous rule, means any debarred independent public accountant or other auditor.

Last, the reference to the “effective date of this rule” in section 1606.4(b)(5) is changed to December 23, 1998, the effective date of the previous rule.

§ 1606.5 Procedures.

The heading and section 1606.5(a) are updated to remove the limited reference to terminations and debarments in order to include limited reductions of funding. These procedures are available for, and apply to, all part 1606 enforcement mechanisms.

A new section 1606.5(b) is added to correspond to the new level of review in section 1606.10 for limited reductions of funding. The LSC President, or another senior LSC employee, will hear any final appeal of a limited reduction draft final decision. Those procedures are modeled on the 45 CFR part 1630 final appeal procedures for disallowed costs. The person hearing the appeal must have not been involved in the prior proceedings. The final rule requires that LSC designate the person to hear the final appeal before LSC considers whether or not to proceed with a preliminary determination for a limited reduction of funding.

§ 1606.6 Preliminary determination and final decision.

The title of this section is updated to include reference to a final decision, which may be issued under this section if the recipient does not request any review of the preliminary determination. The language of this section is updated for clarity and to include limited reductions of funding, without material modifications that would change its meaning or application from the previous rule.

Section 1606.6(a)(6) is added to explicitly provide an option for LSC to specify corrective action that could resolve the situation without a termination or limited reduction of funding. This language is based on the previous suspension rule at 45 CFR part 1623; it does not appear in the previous part 1606 rule. LSC is not required to provide the recipient with a corrective action option, and the recipient does not have a

right to avoid a termination or limited reduction of funding through corrective actions unless explicitly authorized by LSC. This language links to the new section 1606.7(a) to provide a clear option for resolving these situations through corrective action if LSC determines that doing so would be sufficient.

Section 1606.5(a)(7) is added to require that the preliminary determination summarize any prior attempts at resolution of the situation. The addition of this subsection does not require LSC to seek resolution prior to initiating a part 1606 action. Rather, when LSC and the recipient have attempted to resolve the situation, the rule will now require that LSC summarize those attempts and make them part of the administrative record.

References to a "designated employee" in this section are replaced with references to the Corporation as the actor, consistent with the definition of Corporation.

Section 1606.7 Corrective action, informal conference, review of written materials in opposition to the preliminary determination, and final decision.

The title and content of this section have been updated to expand and clarify the options available after a recipient receives a preliminary determination. As stated in the previous rule, the informal conference is designed to create the opportunity for narrowing the issues and exploring the possibility of settlement or compromise. The informal conference is retained without material modifications that would change its meaning or application from the previous rule. The rule is changed to permit any senior LSC employee to hold the informal conference rather than the previous requirement that it be held by the same employee who issued the preliminary determination. In some cases, the same employee should handle both matters to bring consistent perspective and experience to the matter. In other situations, it may foster an atmosphere of settlement or compromise to have different LSC employees handle each stage of the process.

This section now explicitly provides an option for the recipient to submit written materials in opposition to the preliminary determination without a request for an informal conference. This option to present arguments in writing only is based on the similar option in the suspension rule at 45 CFR part 1623; a conference is not required if the recipient requests only a paper review.

§ 1606.7(a) Corrective Action.

Subsection (a) provides a new option for resolving a preliminary determination through adoption of any corrective action proposed by LSC, in its sole discretion, as a clear path to settlement of the issues. A corrective action proposed by the recipient that significantly differs from the LSC proposal may be considered at an informal conference but not as part of the section 1606.7(a) procedures. The recipient must agree to the terms and timing of implementation of the corrective actions to the satisfaction of LSC, as memorialized in a written compliance agreement. If, at any time, LSC determines that the recipient is not sufficiently implementing the corrective action, LSC can proceed to issue a draft final decision, subject to the further rights of review under later sections of this part. If a recipient chooses this new process, then the recipient cannot later

request an informal conference under this section. This option responds to a comment that the proposed rule did not clearly address what would happen if the recipient adopted the suggested corrective action. It also implements suggestions from the LSC Board that the rule should provide better means of alternative resolution when appropriate.

§ 1606.8 Hearing for a termination or debarment.

The title of this section is updated to specify that hearings are available only for terminations and debarments, but not for limited reductions of funding. There are no material modifications that would change the meaning or application of this section from the previous rule. The deadlines have been designated as business or calendar days consistent with the new definition of days.

§ 1606.9 Recommended decision for termination or debarment.

The title and language of this section are updated to specify that the recommended decision is applicable only to hearings for terminations or debarments. The only substantive change is a new section 1606.9(a)(2) that permits the hearing officer to recommend reducing a termination to below five percent, and thus convert a termination into a limited reduction of funding. The previous rule permitted the hearing officer to recommend terminations only, which would exclude the option of funding reductions of below five percent. Reference to limited reductions of funding is added to section 1606.9(a)(3) for consistency without any material modifications that would change its meaning or application from the previous rule referencing terminations or debarments.

§ 1606.10 Final decision for a termination, debarment, or limited reduction of funding.

This section is updated to add direct appeals to the LSC President, or designee, of draft final decisions for limited reductions of funding. This type of appeal is similar to the final appeal of a disallowed cost decision in 45 CFR part 1630. The final review is identical as that provided for in other part 1606 actions, with one exception. For limited reduction of funding appeals to the President, in which there is no right to review by a hearing officer, new subsection (d) provides that the President must not have had prior involvement with the limited reduction of funding proceedings under this part. That provision is also based on the part 1630 process, which requires that the President not review actions in which he or she had prior involvement. As discussed in the FNPRM, the President is not disqualified merely because he or she is briefed about the situation, contacted by the recipient or other parties, or otherwise is aware but not actively involved in the part 1606 proceedings.

A number of comments recommended that the hearing officers or the final decision maker for appeals be non-LSC employees. As discussed earlier, in 1996 Congress lifted the LSC Act requirement for enforcement actions to be reviewed by an independent hearing examiner. The final rule does not change the impartiality requirement for hearing officers for terminations and debarment that they have not had prior involvement in the part 1606 enforcement action being reviewed. It also does not

change the ability of LSC to suspend funding for up to thirty days without impartial review. For the new limited reductions of funding and suspensions of over thirty days, the final rule provides the same requirement of impartiality for the LSC President or other senior LSC employee providing final review of the matter. These impartiality requirements are sufficient for the process rights of recipients within the statutory framework and LSC's understanding of Congress's expectations for LSC's enforcement procedures.

Other changes to this section clarify the process and deadlines without substantive changes. The FNPRM suggested adding the section 1606.6(a) preliminary determination requirements to any final decision modifying or extending the draft final decision. That suggestion is not retained in this final rule because it became apparent during the comment period that those requirements are tailored to the preliminary determination, *e.g.*, including the notice of rights to appeal and continued funding, and are not appropriate for final decisions.

§ 1606.11 Qualifications on hearing procedures.

This section is updated for clarity without material modifications that would change its meaning or application from the previous rule. Section 1606.11(c)(3) is updated to require that LSC provide the final decision to the recipient within five days of the expiration of the appeal period. The previous rule stated that the recommended decision would become final if not appealed, but did not state when it must be provided as a final decision.

§ 1606.12 Time and waiver.

This section is updated for clarity without material modifications that would change its meaning or application from the previous rule

§ 1606.13 Interim and termination funding; reprogramming.

This section is updated to include reference to limited reductions of funding. A new section 1606.13(d) is added to state explicitly that the manner of implementation is at the sole discretion of LSC. For example, depending on the situation, including the timing of the action in the grant year and funding term, LSC may choose to pro-rate a partial termination or limited reduction through the remaining grant payments or to withhold the reduced funds in one lump sum. The previous rule did not address that issue and this new section is consistent with the options available to LSC within its discretion under that rule.

Section 1606.13(e), the former subsection (d), is modified to remove the reference to using the terminated or reduced funds for the same service area, as proposed in the NPRM. The previous rule provided that LSC may keep the funds in the same service area or otherwise reallocate them for any basic field purposes. Some of the comments recommended keeping the existing rule. As discussed in the NPRM, this language is eliminated because it could lead to an erroneous expectation that LSC would give preference to keeping the funds from a termination in part or from a limited reduction of funding in the same service area in which the same recipient continued to provide

services through the end of the funding term. LSC had the authority under the previous rule and has the authority under this final rule to exercise its discretion to determine the best use of these funds in light of considerations such as the needs of the service area, the behavior of the recipient, and other uses of recovered funds for emergencies or special grants in other service areas. The change in language does not change the substance of the rule.

Part 1614—Private Attorney Involvement

§ 1614.7(b) Failure to comply.

One technical update to 45 CFR part 1614 relates to this rulemaking. Although not included in the NPRM or FNPRM, this update includes no material modifications that would change the meaning or application of this section from the previous rule and is necessary to harmonize that rule with this rulemaking and other prior changes to the LSC regulations. Part 1614 requires that an LSC recipient expend an amount equivalent to at least 12.5 percent of a basic field award on private attorney involvement (PAI) activities. The failure to do so may result in LSC withholding or recovering some funds from the recipient, depending on the circumstances. Section 1614.7 of the previous rule provided the requirements for those situations and stated that the withholding or recovery of funds for a failure to meet the part 1614 requirements does not constitute either a termination or a denial of refunding. The reference to terminations is changed to a reference to any action under 45 CFR part 1606. The reference to denials of refunding is eliminated, as LSC withdrew the denial of refunding regulation in 1998.

Part 1618—Enforcement Procedures

This final rule incorporates some substantive changes and some extensive structural, but non-substantive, changes to 45 CFR part 1618 as proposed in the FNPRM. The significant substantive change to the rule involves adding the imposition of special grant conditions during a grant year to section 1618.5(c). The final rule also changes references to violations of the LSC Act throughout the rule to violations of the LSC requirements as the term “LSC requirements” is defined for use in part 1606 and 1623. The previous rule defined the “Act” as the LSC Act or the LSC rules and regulations, but did not include other applicable laws, such as the LSC appropriations riders, or LSC guidelines and instructions, which have been included in both parts 1606 and 1623 as they have been updated over the past thirty years. Part 1618 is both outdated and confusing in this regard. The new definition of LSC requirements is based on the language used in parts 1606 and 1623, and this definition applies in all three sections for consistency and clarity.

Some of the comments suggested changing the threshold standard under section 1618.5(b) for proceeding to enforcement actions under parts 1606 and 1623. The rule provides that LSC can proceed to consider enforcement actions:

[w]henever there is substantial reason to believe that a recipient has persistently or intentionally violated the Act, or, after notice, has failed to

take appropriate remedial or disciplinary action to insure compliance by its employees with the Act, and attempts at informal resolution have been unsuccessful

45 CFR 1618.5(b). Those comments suggested adding a "knowing and willful" standard to this section. The OIG's comment notes that the 1998 rulemaking considered using "intent" as a factor in the standard for terminations and choose instead to use the defined term "knowing and willful." The final rule does not change this language and retains the longstanding "intent" prong of the part 1618 analysis consistent with original structure of the rule under the LSC Act and the 1998 changes to parts 1606 and 1623. "Knowing and willful" was adopted in 1998 as a defined term in those regulations as one of many factors for consideration, while "intentionally violated" was retained in part 1618.

§ 1618.1 Purpose.

The purpose section is updated to incorporate the broader scope of the LSC requirements.

§ 1618.2 Definitions.

The definitions section is updated to incorporate the broader scope of the LSC requirements. A definition of "violation" has been added to make clear that the scope of violations at issue under this rule is limited to the LSC requirements.

§ 1618.3 Complaints.

The language of this section is updated for clarity and to reference the new definitions.

§ 1618.4 Duties of recipients.

The language of this section is updated for clarity and to reference the new definitions. A new section 1618.4(c) is added to emphasize that this section does not create rights for recipient employees. Rather, this section is designed to ensure that recipients adopt and follow procedures designed to ensure that employees implement and follow the LSC requirements, and that the recipient applies those requirements consistent with LSC's interpretation of them.

§ 1618.5 Duties of the Corporation.

The language of this section is updated for clarity and to reference the new definitions and include reference to limited reductions of funding. Section 1618.5(a) has a new final sentence clarifying that LSC's investigation of a possible violation may be limited to determining if the recipient is taking sufficient actions.

The existing language in section 1618.5(b) requires "attempts at informal resolution" prior to proceeding to consider enforcement actions under some circumstances. There are no changes to this language, but LSC notes that the information resolution referenced here includes consideration of remedial actions, preventative actions, and sanctions, as discussed in the FNPRM.

A new section 1618.5(c) is added regarding immediate special grant conditions. Under previous LSC practice, special grant conditions were imposed only when a new grant was awarded or an existing grant was renewed. Under that practice, a recipient had an opportunity to consider the special grant conditions prior to agreeing to them. The NPRM proposed language to permit LSC to impose immediate grant conditions any time that the section 1618.5(b) thresholds are met. The FNPRM revised that language to permit immediate special grant conditions only after LSC determines that three factors are met: 1) a violation has occurred, 2) corrective actions are required, and 3) special grant conditions are needed prior to the next renewal or competition. The immediate special grant conditions enable LSC to convert required corrective actions contained in reports, such as OCE reports, into specific grant requirements.

Part 1623—Suspension Procedures

The NPRM proposed to change only the language regarding the thirty-day limit on non-audit based suspensions to increase it to a ninety-day limit. The FNPRM, and this final rule, make a number of non-substantive, technical changes to harmonize the suspension rule with 45 CFR part 1606. In the previous rule, some, but not all, of the relevant definitions are repeated in both rules. The final rule provides a cross reference to the definitions in 45 CFR part 1606 for consistency. An additional change is made in the final rule to permit commencement of other enforcement actions during a suspension. This change is consistent with the overall rulemaking and the revised enforcement mechanisms structure.

Comments on the NPRM and the FNPRM recommended an appeal process for suspensions, especially those that go beyond certain dollar thresholds. The OIG agreed that some appeal might be appropriate, but expressed concern about adopting appeal procedures that are too cumbersome and emphasized that appeals should occur during the pendency of the suspension, which is meant to protect funds from future misuse. The final rule includes an appeal procedure that mirrors the procedure for limited reductions of funding, which is based on the 45 CFR part 1630 disallowed cost appeal procedure.

The OIG also recommended eliminating any time limit for suspensions, and permitting suspensions to continue until compliance, as is the case for audit-based suspensions. In the 1998 rulemaking, LSC decided to retain a thirty-day limit on suspensions because LSC determined that a termination process was more appropriate than a prolonged suspension. 63 FR 64636 at 64638 (1998). In this rulemaking LSC has expanded suspensions to ninety days to make them more effective in short timeframes, but LSC continues to believe that terminations or reductions of funding with their corresponding procedures are more appropriate for intractable concerns that cannot be resolved within a limited suspension period.

§ 1623.2 Definitions.

The definitions of "knowing and willful" and "recipient" are deleted and replaced with a cross-reference to the definitions in 45 CFR part 1606, which include both of those terms. The definitions are identical in the previous rules and this change makes no

substantive change to either. The use of the same definitions for other terms in both rules provides consistency throughout the regulations, e.g., "LSC requirements" and "substantial violation."

§ 1623.3 Grounds for suspension.

The previous rule provided a definition of "substantial violation" identical to the use of that term in 45 CFR part 1606. The term is deleted in favor of the new cross-reference to definitions in part 1606. There are no substantive changes to the definition.

Similarly the term "LSC requirements" replaces the list of LSC requirements that appeared in this rule and in other places in the regulations. It is defined in 45 CFR part 1618 and cross-referenced in 45 CFR part 1606.

§ 1623.4 Suspension procedures.

In response to comments regarding the need for appeals of suspensions, LSC is adding an appeals process for suspensions that last longer than thirty days. The process is specified in sections 1623.4(a) and (h). This addition preserves the previous rule's requirements for commencing suspensions based on notice and an informal meeting and continuing those suspensions for up to thirty days without further appeal. If the suspension lasts longer than thirty days, then the recipient may appeal to the LSC President. The appeal procedures are based on the new part 1606 limited reduction of funding appeal procedures, which are in turn based on the part 1630 disallowed cost appeal procedures. The discussion of those procedures in part 1606 applies equally to this section. Unlike part 1606 actions, the suspension will continue pending the appeal. The final rule requires that LSC issue a suspension decision within fifteen calendar days of receipt of the appeal in order to resolve the appeal promptly.

New sections 1623.4(d) and (e) are copied from the revised informal conference procedures in 45 CFR part 1606. That language emphasizes seeking settlement or compromise and provides that the informal meeting can be conducted by the same employee who issued the proposed determination, or another senior LSC employee.

Section 1623.4(k), regarding audit-based suspensions, is updated to state that the new appeal process does not apply to audit-based suspensions, preserving the previous rule's requirements.

§ 1623.6 Interim Funding.

A technical change is made to section 1623.6(b) to state that suspended funds will be "released" at the end of the suspension period rather than "returned."

VII) Promulgation of Regulations

For the reasons set forth above, and under the authority of 42 U.S.C. 2996g(3), LSC proposes to amend 45 CFR chapter XVI as follows:

List of Subjects in 45 CFR Part 1606

Administrative practice and procedure
Grant programs-law
Legal services

1. Revise 45 CFR part 1606 to read as follows:

Part 1606—TERMINATION, LIMITED REDUCTION OF FUNDING, AND DEBARMENT PROCEDURES; RECOMPETITION

Sec.

- 1606.1 Purpose.
- 1606.2 Definitions.
- 1606.3 Grounds for a termination or limited reduction of funding.
- 1606.4 Grounds for debarment.
- 1606.5 Procedures.
- 1606.6 Preliminary determination and final decision.
- 1606.7 Corrective action, informal conference, review of written materials, and final decision.
- 1606.8 Hearing for a termination or debarment.
- 1606.9 Recommended decision for a termination or debarment.
- 1606.10 Final decision for a termination, debarment, or limited reduction of funding.
- 1606.11 Qualifications on hearing procedures.
- 1606.12 Time and waiver.
- 1606.13 Interim and termination funding; reprogramming, implementation.
- 1606.14 Recompensation.

Authority: 42 U.S.C. 2996e (b)(1) and 2996f(a)(3); Pub. L. 105-119, 111 Stat. 2440, Secs. 501(b) and (c) and 504; Pub. L. 104-134, 110 Stat. 1321.

Source: [insert Federal Register citation for date of publication] unless otherwise noted.

§ 1606.1 Purpose.

The purpose of this rule is to:

(a) Ensure that the Corporation is able to take timely action to deal with incidents of substantial noncompliance by recipients with a provision of the LSC Act, the Corporation's appropriations act or other law applicable to LSC funds, a Corporation rule, regulation, guideline or instruction, or the terms and conditions of the recipient's grant or contract with the Corporation;

(b) Provide timely and fair due process procedures, proportional to the proposed action, when the Corporation has made a preliminary decision to terminate a recipient's LSC grant or contract, to debar a recipient from receiving future LSC awards of financial assistance, or to impose a lesser reduction in funding; and

(c) Ensure that scarce funds are provided to recipients who can provide the most effective and economical legal assistance to eligible clients.

(d) None of the following actions are subject to the procedures or requirements of this part:

- (1) A reduction of funding required by law, including but not limited to a reduction in, or rescission of, the Corporation's appropriation that is apportioned among all recipients of the same class in proportion to their current level of funding;
- (2) A reduction or deduction of LSC support for a recipient under the Corporation's fund balance regulation at 45 CFR part 1628;
- (3) A recovery of disallowed costs under the Corporation's regulation on costs standards and procedures at 45 CFR part 1630;
- (4) A withholding of funds pursuant to the Corporation's Private Attorney Involvement rule at 45 CFR part 1614.

§ 1606.2 Definitions.

For the purposes of this part:

(a) *Corporation*, when used to refer to decisions by the Legal Services Corporation, means that those decisions are made by an individual acting with a seniority level at, or equivalent to, the level of an office director or higher.

(b) *Days* shall mean the number of calendar days as determined by the rules for computing time in the Federal Rules of Civil Procedure, Rule 6, except that computation of *business days* shall exclude Saturdays, Sundays, and legal holidays (as defined in those rules).

(c) *Debarment* means an action taken by the Corporation to exclude a recipient from receiving an additional award of financial assistance from the Corporation or from receiving additional LSC funds from another recipient of the Corporation pursuant to any other means, including a subgrant, subcontract or similar agreement, for the period of time stated in the final debarment decision.

(d) *Funding term* means the maximum time period for an award or awards of financial assistance under section 1006(a)(1)(A) of the LSC Act provided by the Corporation to a recipient selected pursuant the competition requirements at 45 CFR part 1634. LSC may award grants or contracts for a period of the entire funding term or for shorter periods that may be renewed or extended up to the funding term.

(e) *Knowing and willful* means that the recipient had actual knowledge that its action or lack thereof constituted a violation and despite such knowledge, undertook or failed to undertake the action, as the case may be.

(f) *Limited reduction of funding* means a reduction of funding of less than five percent of a recipient's current level of financial assistance imposed by the Corporation in accordance with the procedures and requirements of this part. A limited reduction of funding will affect only the recipient's current year's funding.

(g) *LSC requirements* means the same as that term is defined in 45 CFR Part 1618.

(h) *Receipt* of materials shall mean that the materials were sent to the normal address for physical mail, e-mail, or fax transmission, and there is reliable secondary confirmation of delivery. For physical delivery, confirmation may be provided through tracking information from the delivery service. For other forms of delivery, confirmation may be provided through a document such as a confirmation e-mail or a fax sent from an authorized person at the recipient. Receipt of materials by the LSC recipient or the Corporation is sufficient for the running of applicable time periods. Proof of receipt by the Chair of the governing body is not necessary unless delivery to the recipient itself cannot be reasonably accomplished.

(i) *Recipient* means the same as the term is defined in 45 CFR Part 1600.

(j) Substantial noncompliance means either a substantial violation, as defined in this part, or a substantial failure, as indicated at § 1606.3(a) of this part.

(k) Substantial violation means a violation that merits action under this part based on consideration of the following criteria by the Corporation:

- (1) The number of restrictions or requirements violated;
- (2) Whether the violation represents an instance of noncompliance with a substantive statutory or regulatory restriction or requirement, rather than an instance of noncompliance with a non-substantive technical or procedural requirement;
- (3) The extent to which the violation is part of a pattern of noncompliance with LSC requirements or restrictions;
- (4) The extent to which the recipient failed to take action to cure the violation when it became aware of the violation; and
- (5) Whether the violation was knowing and willful.

(l) *Termination* means that a recipient's level of financial assistance under its grant or contract with the Corporation will be reduced in whole or in part in the amount of five percent or greater prior to the expiration of the funding term of a recipient's current grant or contract. A partial termination will affect only the level of funding for the current grant year, unless the Corporation provides otherwise in the final decision.

(m) *Violation* means a violation by the recipient of the LSC requirements.

§ 1606.3 Grounds for a termination or a limited reduction of funding.

(a) A grant or contract may be terminated in whole or in part when:

(1) There has been a substantial violation by the recipient, and the violation occurred less than 5 years prior to the date the recipient receives a preliminary determination pursuant to § 1606.6(a); or

(2) There has been a substantial failure by the recipient to provide high quality, economical, and effective legal assistance, as measured by generally accepted professional standards, the provisions of the LSC Act or LSC appropriations, or a rule, regulation, including 45 CFR 1634.9(a)(2), or guidelines or instructions issued by the Corporation.

(b) The Corporation may impose a limited reduction of funding when the Corporation determines that there has been a substantial violation by the recipient but that termination of the recipient's grant, in whole or in part, is not warranted, and the violation occurred less than 5 years prior to the date the recipient receives a preliminary determination pursuant to § 1606.6(a).

(c) A determination of whether there has been a substantial violation for the purposes of this part, and the magnitude of any termination, in whole or in part, or any lesser reduction in funding, shall be based on consideration of the criteria set forth in the definition of "substantial violation" in this part.

§ 1606.4 Grounds for debarment.

(a) The Corporation may debar a recipient, on a showing of good cause, from receiving an additional award of financial assistance from the Corporation.

(b) As used in paragraph (a) of this section, "good cause" means:

(1) A termination of financial assistance to the recipient pursuant to part 1640 of this chapter;

(2) A termination of financial assistance in whole of the most recent grant or contract of financial assistance;

(3) The substantial violation by the recipient of the restrictions delineated in § 1610.2 (a) and (b) of this chapter, provided that the violation occurred within 5 years prior to the receipt of the debarment notice by the recipient;

(4) Knowing entry by the recipient into:

(i) Any agreement or arrangement, including, but not limited to, a subgrant, subcontract, or other similar agreement, with an entity debarred by the Corporation during the period of debarment if so precluded by the terms of the debarment; or

- (ii) An agreement for professional services with an independent public accountant or other auditor debarred by the Corporation during the period of debarment if so precluded by the terms of the debarment; or
- (5) The filing of a lawsuit by a recipient, provided that the lawsuit:
- (i) Was filed on behalf of the recipient as plaintiff, rather than on behalf of a client of the recipient;
 - (ii) Named the Corporation, or any agency or employee of a Federal, State, or local government as a defendant;
 - (iii) Seeks judicial review of an action by the Corporation or such government agency that affects the recipient's status as a recipient of Federal funding, except for a lawsuit that seeks review of whether the Corporation or agency acted outside of its statutory authority or violated the recipient's constitutional rights; and
 - (iv) Was initiated after December 23, 1998.

§ 1606.5 Procedures.

- (a) Before any final action is taken under this part, the recipient will be provided notice and an opportunity to be heard as set out in this part.
- (b) Prior to a preliminary determination involving a limited reduction of funding, the Corporation shall designate either the President or another senior Corporation employee to conduct any final review that is requested pursuant to § 1606.10 of this part. The Corporation shall ensure that the person so designated has had no prior involvement in the proceedings under this part so as to meet the criterion set out in § 1606.10(d) of this part.

§ 1606.6 Preliminary determination and final decision.

- (a) When the Corporation has made a preliminary determination of one or more of the following, the Corporation shall issue a written notice to the recipient and the Chair of the recipient's governing body: that a recipient's grant or contract should be terminated, that a limited reduction of funding shall be imposed, or that a recipient should be debarred. The notice shall:
 - (1) State the substantial noncompliance that constitutes the grounds for the proposed action;
 - (2) Identify, with reasonable specificity, any facts or documents relied upon as justification for the proposed action;
 - (3) Inform the recipient of the proposed amount and proposed effective date for the proposed action;

- (4) Advise the recipient of its procedural rights for review of the proposed action under this part;
- (5) Inform the recipient of its right to receive interim funding pursuant to § 1606.13 of this part;
- (6) Specify what, if any, corrective action the recipient can take to avoid the proposed action; and
- (7) Summarize prior attempts, if any, for resolution of the substantial noncompliance.

(b) If the recipient does not request review, as provided for in this part, before the relevant time limits have expired, then the Corporation may issue a final decision to the recipient. No further appeal or review will be available under this part.

§ 1606.7 Corrective action, informal conference, review of written materials, and final decision .

(a) If the Corporation proposes a corrective action in the preliminary determination pursuant to § 1606.6(a)(6) of this part, then the recipient may accept and implement the corrective action, in lieu of an informal conference or submission of written materials under this section, subject to the following requirements:

- (1) Within 10 business days of receipt of the preliminary determination, the recipient may submit a draft compliance agreement to accept the terms of the proposed corrective action, which must include an implementation plan and timeline;
- (2) If the Corporation approves the draft compliance agreement, including any modifications suggested by the recipient or the Corporation, then it shall be memorialized in a final compliance agreement signed by the Corporation and the recipient, which shall stay these proceedings;
- (3) If the recipient completes the terms of the written compliance agreement in a time and manner that is satisfactory to the Corporation, then the Corporation shall withdraw the preliminary determination; and
- (4) If the Corporation determines at any time that the recipient has not presented an acceptable draft compliance agreement, or has not fulfilled any terms of the final compliance agreement, then the Corporation shall notify the recipient in writing. Within 15 calendar days of that notice, the Corporation shall modify or affirm the preliminary determination as a draft final decision. The draft final decision shall summarize these attempts at resolution. The draft final decision need not engage in a detailed analysis of the failure to resolve the substantial noncompliance.

(b) A recipient may submit written materials in opposition to the preliminary determination, request an informal conference, or both, as follows:

(1) for terminations or debarments, within 30 calendar days of receipt of the preliminary determination; or

(2) for limited reductions in funding, within 10 business days of receipt of the preliminary determination.

(c) Within 5 business days of receipt of a request for a conference, the Corporation shall notify the recipient of the time and place the conference will be held,. Some or all of the participants in the conference may attend via telephone, unless the recipient requests an in-person meeting between the Corporation and at least one representative of the recipient. If the recipient requests an in-person meeting, then other participants may attend via telephone. Alternative means of participation other than the telephone are permissible at the sole discretion of the Corporation.

(d) The informal conference shall be conducted by the Corporation employee who issued the preliminary determination or any other Corporation employee with a seniority level equivalent to the level of an office director or higher.

(e) At the informal conference, the Corporation and the recipient shall both have an opportunity to state their case, seek to narrow the issues, explore the possibilities of settlement or compromise including implementation of corrective actions, and submit written materials.

(f) If an informal conference is conducted or written materials are submitted in opposition to the proposed determination by the recipient, or both, the Corporation shall consider any written materials and any oral presentation or written materials submitted by the recipient at an informal conference. Based on any of these materials or the informal conference, or both, the Corporation shall modify, withdraw, or affirm the preliminary determination through a draft final decision in writing, which shall be provided to the recipient within the later of 15 calendar days after the conclusion of the informal conference or after the recipient of written materials in opposition to the proposed determination (when no informal conference is requested). Except for decisions to withdraw the preliminary determination, the draft final decision shall include a summary of the issues raised in the informal conference and presented in any written materials. The draft final decision need not engage in a detailed analysis of all issues raised.

(g) If the recipient does not request further process, as provided for in this part, then, after the relevant time limits have expired, the Corporation shall notify the recipient that no further appeal or review will be available under this part and may proceed to issue the final decision.

§ 1606.8 Hearing for a termination or debarment.

(a) For terminations or debarments only, the recipient may make a written request for a hearing within the later of: 30 calendar days of its receipt of the preliminary

determination, or 15 calendar days of receipt of the draft final decision issued under § 1606.7, as the case may be.

(b) Within 10 business days after receipt of a request for a hearing, the Corporation shall notify the recipient in writing of the date, time, and place of the hearing and the names of the hearing officer and of the attorney who will represent the Corporation. The time, date, and location of the hearing may be changed upon agreement of the Corporation and the recipient.

(c) A hearing officer shall be appointed by the President or designee and may be an employee of the Corporation. The hearing officer shall not have been involved in the current termination or debarment action, and the President or designee shall determine that the person is qualified to preside over the hearing as an impartial decision maker. An impartial decision maker is a person who has not formed a prejudgment on the case and does not have a pecuniary interest or personal bias in the outcome of the proceeding.

(d) The hearing shall be scheduled to commence at the earliest appropriate date, ordinarily not later than 30 calendar days after the Corporation receives the notice required by paragraph (b) of this section.

(e) The hearing officer shall preside over and conduct a full and fair hearing, avoid delay, maintain order, and insure that a record sufficient for full disclosure of the facts and issues is maintained.

(f) The hearing shall be open to the public unless, for good cause and the interests of justice, the hearing officer determines otherwise.

(g) The Corporation and the recipient shall be entitled to be represented by counsel or by another person.

(h) At the hearing, the Corporation and the recipient each may present its case by oral or documentary evidence, conduct examination and cross-examination of witnesses, examine any documents submitted, and submit rebuttal evidence.

(i) The hearing officer shall not be bound by the technical rules of evidence and may make any procedural or evidentiary ruling that may help to insure full disclosure of the facts, to maintain order, or to avoid delay. Irrelevant, immaterial, repetitious or unduly prejudicial matter may be excluded.

(j) Official notice may be taken of published policies, rules, regulations, guidelines, and instructions of the Corporation, of any matter of which judicial notice may be taken in a Federal court, or of any other matter whose existence, authenticity, or accuracy is not open to serious question.

(k) A stenographic or electronic record shall be made in a manner determined by the hearing officer, and a copy shall be made available to the recipient at no cost.

(l) The Corporation shall have the initial burden to show grounds for a termination or debarment. The burden of persuasion shall then shift to the recipient to show by a preponderance of evidence on the record that its funds should not be terminated or that it should not be debarred.

§ 1606.9 Recommended decision for a termination or debarment.

(a) For termination or debarment hearings under § 1606.8, within 20 calendar days after the conclusion of the hearing, the hearing officer shall issue a written recommended decision to the recipient and the Corporation, which may:

- (1) Terminate financial assistance to the recipient commencing as of a specific date;
- (2) Impose a limited reduction of funding commencing as of a specific date;
- (3) Continue the recipient's current level of financial assistance under the grant or contract, subject to any modification or condition that may be deemed necessary on the basis of information adduced at the hearing; or
- (4) Debar the recipient from receiving an additional award of financial assistance from the Corporation.

(b) The recommended decision shall contain findings of the significant and relevant facts and shall state the reasons for the decision. Findings of fact shall be based solely on the record of, and the evidence adduced at the hearing or on matters of which official notice was taken.

§ 1606.10 Final decision for a termination, debarment, or limited reduction of funding.

(a) If neither the Corporation nor the recipient requests review by the President of a draft final decision pursuant to § 1606.7 or a recommended decision pursuant to § 1606.9, as provided for in this part, within 10 business days after receipt by the recipient, then the Corporation shall issue to the recipient a final decision containing either the draft final decision or the recommended decision, as the case may be. No further appeal or review will be available under this part.

(b) The recipient or the Corporation may seek review by the President of a draft final decision or a recommended decision. A request shall be made in writing within 10 business days after receipt of the draft final decision or recommended decision by the party seeking review and shall state in detail the reasons for seeking review.

(c) The President's review shall be based solely on the administrative record of the proceedings, including the appeal to the President, and any additional submissions,

either oral or in writing, that the President may request. A recipient shall be given a copy of, and an opportunity to respond to, any additional submissions made to the President. All submissions and responses made to the President shall become part of the administrative record. Upon request, the Corporation shall provide a copy of the administrative record to the recipient.

(d) For an appeal of a draft final decision involving a limited reduction of funding pursuant to § 1606.7 (for which there is no right to a hearing under § 1606.8) the President may not review the appeal if the President has had prior involvement in the proceedings under this part. If the President cannot review the appeal, or the President chooses not to do so, then the appeal shall be reviewed by either the individual designated to do so pursuant to § 1606.5(b) of this part, or by another senior Corporation employee designated by the President who has not had prior involvement in the proceedings under this part.

(e) As soon as practicable after receipt of the request for review of a draft final decision or a recommended decision, but not later than 30 calendar days thereafter, the President or designee shall adopt, modify, or reverse the draft final decision or the recommended decision, or direct further consideration of the matter. In the event of modification or reversal of a recommended decision pursuant to § 1606.9, this decision shall conform to the requirements of § 1606.9(b).

(f) The decision of the President or designee under this section shall become final upon receipt by the recipient.

§ 1606.11 Qualifications on hearing procedures.

(a) Except as modified by paragraph (c) of this section, the hearing rights set out in §§ 1606.6 through 1606.10 shall apply to any action to debar a recipient or to terminate a recipient's funding.

(b) The Corporation may simultaneously take action to debar and terminate a recipient within the same hearing procedure that is set out in §§ 1606.6 through 1606.10 of this part. In such a case, the same hearing officer shall oversee both the termination and debarment actions in the same hearing.

(c) If the Corporation does not simultaneously take action to debar and terminate a recipient under paragraph (b) of this section and initiates a debarment action based on a prior termination under § 1606.4(b)(1) or (2), the hearing procedures set out in § 1606.6 through 1606.10 shall not apply. Instead:

(1) The President shall appoint a hearing officer, as described in § 1606.8(c), to review the matter and make a written recommended decision on debarment.

(2) The hearing officer's recommended decision shall be based solely on the information in the administrative record of the termination proceedings providing grounds for the debarment and any additional submissions, either oral or in

writing, that the hearing officer may request. The recipient shall be given a copy of and an opportunity to respond to any additional submissions made to the hearing officer. All submissions and responses made to the hearing officer shall become part of the administrative record.

(3) If neither party appeals the hearing officer's recommended decision within 10 business days of receipt of the recommended decision, the decision shall become final and the final decision shall be issued by the Corporation to the recipient within 5 business days.

(4) Either party may appeal the recommended decision to the President who shall review the matter and issue a final written decision pursuant to § 1606.9(b).

(d) All final debarment decisions shall state the effective date of the debarment and the period of debarment, which shall be commensurate with the seriousness of the cause for debarment but shall not be for longer than 6 years.

(e) The Corporation may reverse a debarment decision upon request for the following reasons:

- (1) Newly discovered material evidence;
- (2) Reversal of the conviction or civil judgment upon which the debarment was based;
- (3) Bona fide change in ownership or management of a recipient;
- (4) Elimination of other causes for which the debarment was imposed; or
- (5) Other reasons the Corporation deems appropriate.

§ 1606.12 Time and waiver.

(a) Except for the 6-year time limit for debarments in § 1606.11(c), any period of time provided in these rules may, upon good cause shown and determined, be extended in writing:

- (1) By the Corporation, unless a hearing officer has been appointed;
- (2) By the hearing officer, until the recommended decision has been issued; or
- (3) By the President at any time.

(b) Failure by the Corporation to meet a time requirement of this part does not preclude the Corporation from terminating a recipient's grant or contract with the Corporation or imposing a limited reduction of funding.

§ 1606.13 Interim and other funding. reprogramming, implementation.

(a) Pending the completion of termination or limited reduction of funding proceedings under this part, the Corporation shall provide the recipient with the level of financial assistance provided for under its current grant or contract for financial assistance with the Corporation.

(b) After a final decision has been made to terminate a recipient's grant or contract or to impose a limited reduction of funding, the recipient loses all rights to the terminated or reduced funds.

(c) After a final decision has been made to terminate a recipient's grant or contract, the Corporation may authorize closeout or transition funding, or both, if necessary to enable the recipient to close or transfer current matters in a manner consistent with the recipient's professional responsibilities to its present clients.

(d) The Corporation has sole discretion to determine the manner in which the final decision is implemented. The Corporation's discretion includes, but is not limited to the decision to pro-rate the amount of funds reduced over the remaining disbursements in the funding term or deduct the sum in a single disbursement, or any other method the Corporation deems appropriate.

(e) Funds recovered by the Corporation pursuant to a termination or limited reduction of funding shall be reallocated by the Corporation for basic field purposes at its sole discretion.

§ 1606.14 Recompensation.

After a final decision has been issued by the Corporation terminating financial assistance to a recipient in whole for any service area, the Corporation shall implement a new competitive bidding process for the affected service area. Until a new recipient has been awarded a grant pursuant to such process, the Corporation shall take all practical steps to ensure the continued provision of legal assistance in the service area pursuant to § 1634.11.

List of Subjects in 45 CFR Part 1614

Grant programs-law
Legal services
Reporting and recordkeeping requirements

PART 1614—PRIVATE ATTORNEY INVOLVEMENT

2. The authority citation for part 1614 continues to read as follows:

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)).

3. Amend § 1614.7 by revising paragraph (b) to read as follows:

(b) The withholding of funds under this section shall not be construed as any action under 45 CFR part 1606.

List of Subjects in 45 CFR Part 1618

Grant programs-law
Legal services

4. Revised 45 CFR part 1618 to read as follows:

PART 1618 – ENFORCEMENT PROCEDURES

Sec.

- 1618.1 Purpose.
- 1618.2 Definition.
- 1618.3 Complaints.
- 1618.4 Duties of Recipients.
- 1618.5 Duties of the Corporation.

Authority: Secs. 1006(b)(1), 1006(b)(2), 1006(b)(5), 1007(d), 1008(e); (42 U.S.C. 2996e(b)(1), 2996e(b)(2), 2996e(b)(5), 2996f(d), 2996g(e)).

Source: [insert Federal Register citation for date of publication] unless otherwise noted.

§ 1618.1 Purpose.

In order to ensure uniform and consistent interpretation and application of the provisions of the LSC Act, the Corporation's appropriations act or other law applicable to LSC funds, a Corporation rule, regulation, guideline or instruction, or the terms and conditions of the recipient's grant or contract with the Corporation, and to prevent a question of whether these requirements have been violated from becoming an ancillary

issue in any case undertaken by a recipient, this part establishes a systematic procedure for enforcing compliance with them.

§ 1618.2 Definitions.

(a) *LSC requirements* means the provisions of the LSC Act, the Corporation's appropriations act or other law applicable to LSC funds, a Corporation rule, regulation, guideline or instruction, or the terms or conditions of the recipient's grant or contract with the Corporation.

(b) *Violation* means a violation by the recipient of the LSC requirements.

§ 1618.3 Complaints.

A complaint of a violation by a recipient or an employee of a recipient may be made to the recipient, the State Advisory Council, or the Corporation.

§ 1618.4 Duties of Recipients.

(a) A recipient shall:

(1) Advise its employees of their responsibilities under the LSC requirements;

(2) Establish procedures, consistent with the notice and hearing requirements of section 1011 of the LSC Act, for determining whether an employee has committed a violation and whether the violation merits a sanction based on consideration of the totality of the circumstances; and

(3) Establish a policy for determining the appropriate sanction to be imposed for a violation, including:

(i) Administrative reprimand if a violation is found to be minor and unintentional, or otherwise affected by mitigating circumstances;

(ii) Suspension and termination of employment; and

(iii) Other sanctions appropriate for enforcement of the LSC requirements.

(b) Before suspending or terminating the employment of any person for a violation, a recipient shall consult the Corporation to ensure that its interpretation of these requirements is consistent with Corporation policy.

(c) This section provides procedural requirements between the Corporation and recipients. It does not create rights for recipient employees.

§ 1618.5 Duties of the Corporation.

(a) Whenever the Corporation learns that there is reason to believe that a recipient or a recipient's employee may have committed a violation, the Corporation shall investigate the matter promptly and attempt to resolve it through informal consultation with the

recipient. Such actions may be limited to determining if the recipient is sufficiently investigating and resolving the matter itself.

(b) Whenever there is substantial reason to believe that a recipient has persistently or intentionally violated the LSC requirements, or, after notice, has failed to take appropriate remedial or disciplinary action to ensure compliance by its employees with the LSC requirements, and attempts at informal resolution have been unsuccessful, the Corporation may proceed to suspend or terminate financial support of the recipient, or impose a lesser reduction in funding, pursuant to the procedures set forth in parts 1623 and 1606, or may take other action to enforce compliance with the LSC requirements.

(c) Whenever the Corporation determines that a recipient has committed a violation, that corrective actions by the recipient are required to remedy the violation and/or prevent recurrence of the violation, and that imposition of special grant conditions are needed prior to the next grant renewal or competition for the service area, the Corporation may immediately impose Special Grant Conditions on the recipient to require completion of those corrective actions.

List of Subjects in 45 CFR Part 1623

Administrative practice and procedure
Grant programs-law
Legal services

5. Revise 45 CFR part 1623 to read as follows:

PART 1623—SUSPENSION PROCEDURES

Sec.

- 1623.1 Purpose.
- 1623.2 Definitions.
- 1623.3 Grounds for suspension.
- 1623.4 Suspension procedures.
- 1623.5 Time extensions and waiver.
- 1623.6 Interim funding.

Authority: 42 U.S.C. 2996e(b)(1); Pub. L. 104-134, 110 Stat. 1321, Sec. 509; Pub. L. 105-119, 111 Stat. 2440, Sec. 501(b).

Source: [insert Federal Register citation for date of publication] unless otherwise noted.

Part 1623—SUSPENSION PROCEDURES

§ 1623.1 Purpose.

The purpose of this rule is to:

- (a) Ensure that the Corporation is able to take prompt action when necessary to safeguard LSC funds or to ensure the compliance of a recipient with applicable provisions of law, or a rule, regulation, guideline or instruction issued by the Corporation, or the terms and conditions of a recipient's grant or contract with the Corporation; and
- (b) Provide procedures for prompt review that will ensure informed deliberation by the Corporation when it has made a proposed determination that financial assistance to a recipient should be suspended.

§ 1623.2 Definitions.

- (a) For the purposes of this part the definitions in 45 CFR part 1606 shall apply and also:
- (b) *Suspension* means an action taken during the term of the recipient's current year's grant or contract with the Corporation that withholds financial assistance to a recipient, in whole or in part, until the end of the suspension period pending prompt corrective action by the recipient or a decision by the Corporation to initiate termination proceedings.

§ 1623.3 Grounds for suspension.

- (a) Financial assistance provided to a recipient may be suspended when the Corporation determines that there has been a substantial violation by the recipient of the LSC requirements, and the Corporation has reason to believe that prompt action is necessary to:
 - (1) Safeguard LSC funds; or
 - (2) Ensure immediate corrective action necessary to bring a recipient into compliance with an applicable provision of law, or a rule, regulation, guideline or instruction issued by the Corporation, or the terms and conditions of the recipient's grant or contract with the Corporation.
- (b) Financial assistance provided to a recipient may also be suspended by the Corporation pursuant to a recommendation by the Office of Inspector General when the recipient has failed to have an acceptable audit in accordance with the guidance promulgated by the Corporation's Office of Inspector General.

§ 1623.4 Suspension procedures.

- (a) Prior to a preliminary determination involving a suspension of funding, the Corporation shall designate either the President or another senior Corporation

employee to conduct any final review that is requested pursuant this part. The Corporation shall ensure that the person so designated has had no prior involvement in the proceedings under this part so as to meet the criterion of impartiality described in this section.

(b) When the Corporation has made a proposed determination, based on the grounds set out in section 1623.3, that financial assistance to a recipient should be suspended, the Corporation shall serve a written proposed determination on the recipient. The proposed determination shall:

- (1) State the grounds and effective date for the proposed suspension;
- (2) Identify, with reasonable specificity, any facts or documents relied upon as justification for the suspension;
- (3) Specify what, if any, prompt corrective action the recipient can take to avoid or end the suspension;
- (4) Advise the recipient that it may request, within 5 business days of receipt of the proposed determination, an informal meeting with the Corporation at which it may attempt to show that the proposed suspension should not be imposed; and
- (5) Advise the recipient that, within 10 business days of its receipt of the proposed determination and without regard to whether it requests an informal meeting, it may submit written materials in opposition to the proposed suspension.

(c) If the recipient requests an informal meeting with the Corporation, the Corporation shall designate the time and place for the meeting. The meeting shall occur within 5 business days after the recipient's request is received.

(d) The informal meeting shall be conducted by the Corporation employee who issued the preliminary determination or any other Corporation employee at the level with a seniority level equivalent to the level of an office director or higher.

(e) At the informal meeting, the Corporation and the recipient shall both have an opportunity to state their case, seek to narrow the issues, explore the possibilities of settlement or compromise including implementation of corrective actions, and submit written materials.

(f) The Corporation shall consider any written materials submitted by the recipient in opposition to the proposed suspension and any oral presentation or written materials submitted by the recipient at an informal meeting. If, after considering such materials, the Corporation determines that the recipient has failed to show that the suspension should not become effective, the Corporation may issue a written final determination to suspend financial assistance to the recipient in whole or in part and under such terms and conditions the Corporation deems appropriate and necessary. The final determination shall include a summary of the issues raised in the informal conference and presented in any written materials. The final determination need not engage in a detailed analysis of all issues raised.

(g) The final determination shall be promptly transmitted to the recipient in a manner that verifies receipt of the determination by the recipient, and the suspension shall become effective when the final determination is received by the recipient or on such later date as is specified therein.

(h) If a suspension lasts for more than 30 days, then the recipient may seek review of the suspension by the President. A request may be made in writing on the thirty-first day or any day thereafter, and shall state, in detail, the reasons for seeking review.

- 1) The President may not review the suspension appeal if the President has had prior involvement in the suspension proceedings. If the President cannot review, or the President chooses not to do so, then the appeal shall be reviewed by either the individual designated to do so pursuant to § 1623.4(a) of this part, or by another senior Corporation employee designated by the President who has not had prior involvement in the suspension proceedings.
- 2) The President's review shall be based on the administrative record of the proceedings, including the appeal to the President, and any additional submissions, either oral or in writing that the President may request. A recipient shall be given a copy of, and an opportunity to respond to, any additional submissions made to the President. All submissions and responses made to the President shall become part of the administrative record. Upon request, the Corporation shall provide a copy of the administrative record to the recipient.
- 3) The President shall affirm, modify, or terminate the suspension through a suspension appeal decision within 15 calendar days of receipt of the appeal by the Corporation, unless the Corporation and the recipient agree to a later date.

(i) The Corporation may at any time rescind or modify the terms of the final determination to suspend and, on written notice to the recipient, may reinstate the suspension without further proceedings under this part.

(j) Except as provided in § 1623.4(k) of this part, the total time of a suspension shall not exceed 90 calendar days, unless the Corporation and the recipient agree to a continuation of the suspension without further proceedings under this part.

(k) When the suspension is based on the grounds in section 1623.3(b) of this part, a recipient's funds may be suspended until an acceptable audit is completed. No appeal to the President will be available for audit-based suspensions pursuant to § 1623.3(b).

§ 1623.5 Time extensions and waiver.

(a) Except for the time limits in §§ 1623.4(i) and (j), any period of time provided in this part may be extended by the Corporation for good cause. Requests for extensions of time shall be considered in light of the overall objective that the procedures prescribed

by this part ordinarily shall be concluded within 30 calendar days of the service of the proposed determination.

(b) Any other provision of this part may be waived or modified by agreement of the recipient and the Corporation for good cause.

(c) Failure by the Corporation to meet a time requirement of this part shall not preclude the Corporation from suspending a recipient's grant or contract with the Corporation.

§ 1623.6 Interim funding.

(a) Pending the completion of suspension proceedings under this part, the Corporation shall provide the recipient with the level of financial assistance provided for under its current grant or contract with the Corporation.

(b) Funds withheld pursuant to a suspension shall be released to the recipient at the end of the suspension period.

Victor M. Fortuno,

Vice President & General Counsel.

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[This redline indicates changes from the current rules.]

§ 1606: TERMINATION, LIMITED REDUCTION OF FUNDING, AND DEBARMENT PROCEDURES; RECOMPETITION

§ 1606.1 Purpose.

The purpose of this rule is to:

(a) Ensure that the Corporation is able to take timely action to deal with incidents of substantial noncompliance by recipients with a provision of the LSC Act, the Corporation's appropriations act or other law applicable to LSC funds, a Corporation rule, regulation, guideline or instruction, or the terms and conditions of the recipient's grant or contract with the Corporation;

(b) Provide timely and fair due process procedures, proportional to the proposed action, when the Corporation has made a preliminary decision to terminate a recipient's LSC grant or contract, ~~or~~ to debar a recipient from receiving future LSC awards of financial assistance, or to impose a lesser reduction in funding; and

(c) Ensure that scarce funds are provided to recipients who can provide the most effective and economical legal assistance to eligible clients.

(d) None of the following actions are subject to the procedures or requirements of this part:

- (1) A reduction of funding required by law, including but not limited to a reduction in, or rescission of, the Corporation's appropriation that is apportioned among all recipients of the same class in proportion to their current level of funding;
- (2) A reduction or deduction of LSC support for a recipient under the Corporation's fund balance regulation at 45 CFR part 1628;
- (3) A recovery of disallowed costs under the Corporation's regulation on costs standards and procedures at 45 CFR part 1630;
- (4) A withholding of funds pursuant to the Corporation's Private Attorney Involvement rule at 45 CFR part 1614.

§ 1606.2 Definitions.

[Alphabetized from the previous rule (without tracking of the relettering).]

For the purposes of this part:

(a) Corporation, when used to refer to decisions by the Legal Services Corporation, means that those decisions are made by an individual acting with a seniority level at, or equivalent to, the level of an office director or higher.

(b) Days shall mean the number of calendar days as determined by the rules for computing time in the Federal Rules of Civil Procedure, Rule 6, except that computation of business days shall exclude Saturdays, Sundays, and legal holidays (as defined in those rules).

(c) Debarment means an action taken by the Corporation to exclude a recipient from receiving an additional award of financial assistance from the Corporation or from receiving additional LSC funds from another recipient of the Corporation pursuant to any other means, including a subgrant, subcontract or similar agreement, for the period of time stated in the final debarment decision.

(d) Funding term means the maximum time period for an award or awards of financial assistance under section 1006(a)(1)(A) of the LSC Act provided by the Corporation to a recipient selected pursuant the competition requirements at 45 CFR part 1634. LSC may award grants or contracts for a period of the entire funding term or for shorter periods that may be renewed or extended up to the funding term.

(e) Knowing and willful means that the recipient had actual knowledge ~~of the fact~~ that its action or lack thereof constituted a violation and despite such knowledge, undertook or failed to undertake the action, as the case may be.

(f) Limited reduction of funding means a reduction of funding of less than five percent of a recipient's current level of financial assistance imposed by the Corporation in accordance with the procedures and requirements of this part. A limited reduction of funding will affect only the recipient's current year's funding.

(g) LSC requirements means the same as that term is defined in 45 CFR Part 1618.

(h) Receipt of materials shall mean that the materials were sent to the normal address for physical mail, e-mail, or fax transmission, and there is reliable secondary confirmation of delivery. For physical delivery, confirmation may be provided through tracking information from the delivery service. For other forms of delivery, confirmation may be provided through a document such as a confirmation e-mail or a fax sent from an authorized person at the recipient. Receipt of materials by the LSC recipient or the Corporation is sufficient for the running of applicable time periods. Proof of receipt by

the Chair of the governing body is not necessary unless delivery to the recipient itself cannot be reasonably accomplished.

(i) *Recipient* means the same as the term is defined in 45 CFR Part 1600. any grantee or contractor receiving financial assistance from the Corporation under section 1006(a)(1)(A) of the LSC Act.

(j) Substantial noncompliance means either a substantial violation, as defined in this part, or a substantial failure, as indicated at § 1606.3(a) of this part.

[The following definition has moved without alteration from § 1606.3(c).]

(k) Substantial violation means a violation that merits action under this part based on consideration of the following criteria by the Corporation:

(1) The number of restrictions or requirements violated;

(2) Whether the violation represents an instance of noncompliance with a substantive statutory or regulatory restriction or requirement, rather than an instance of noncompliance with a non-substantive technical or procedural requirement;

(3) The extent to which the violation is part of a pattern of noncompliance with LSC requirements or restrictions;

(4) The extent to which the recipient failed to take action to cure the violation when it became aware of the violation; and

(5) Whether the violation was knowing and willful.

(l) ~~(4)~~ *Termination* means that a recipient's level of financial assistance under its grant or contract with the Corporation will be reduced in whole or in part in the amount of five percent or greater prior to the expiration of the funding term of a recipient's current grant or contract. A partial termination will affect only the recipient's level of funding for the current grant year year's funding, unless the Corporation provides otherwise in the final ~~termination~~ decision.

[Subsection (2) has moved to 1606.1(d) and now covers limited reductions as well.]

~~(2) A termination does not include:~~

~~(i) A reduction of funding required by law, including a reduction in or rescission of the Corporation's appropriation that is apportioned among all recipients of the same class in proportion to their current level of funding;~~

~~(ii) A reduction or deduction of LSC support for a recipient under the Corporation's fund balance regulation at 45 C.F.R. Part 1628;~~

~~(iii) A recovery of disallowed costs under the Corporation's regulation on costs standards and procedures at 45 C.F.R. Part 1630;~~

~~(iv) A withholding of funds pursuant to the Corporation's Private Attorney Involvement rule at 45 C.F.R. Part 1614; or~~

~~(v) A limited reduction of funding as defined in this section.~~

~~(m) Violation means a violation by the recipient of the LSC requirements.~~

§ 1606.3 Grounds for a termination or a limited reduction of funding.

(a) A grant or contract may be terminated in whole or in part when:

(1) There has been a substantial violation by the recipient ~~of a provision of the LSC Act, the Corporation's appropriations act or other law applicable to LSC funds, or Corporation rule, regulation, guideline or instruction, or a term or condition of the recipient's grant or contract~~, and the violation occurred less than 5 years prior to the date the recipient receives a preliminary determination notice of the violation pursuant to § 1606.6(a); or

(2) There has been a substantial failure by the recipient to provide high quality, economical, and effective legal assistance, as measured by generally accepted professional standards, the provisions of the LSC Act or LSC appropriations, or a rule, regulation, including 45 CFR 1634.9(a)(2), or guidelines or instructions guidance issued by the Corporation.

~~(b) The Corporation may impose a limited reduction of funding when the Corporation determines that there has been a substantial violation by the recipient but that termination of the recipient's grant, in whole or in part, is not warranted, and the violation occurred less than 5 years prior to the date the recipient receives a preliminary determination pursuant to § 1606.6(a).~~

~~(c) A determination of whether there has been a substantial violation for the purposes of this part paragraph (a)(1) of this section, and the magnitude of any termination, in whole or in part, or any lesser reduction in funding, will shall be based on consideration of the following criteria set forth in the definition of "substantial violation" in this part.:~~

[The elements of a substantial violation now appear in the definition in § 1606.2(k).]

- ~~(1) The number of restrictions or requirements violated;~~
- ~~(2) Whether the violation represents an instance of noncompliance with a substantive statutory or regulatory restriction or requirement, rather than an instance of noncompliance with a non-substantive technical or procedural requirement;~~
- ~~(3) The extent to which the violation is part of a pattern of noncompliance with LSC requirements or restrictions;~~
- ~~(4) The extent to which the recipient failed to take action to cure the violation when it became aware of the violation; and~~
- ~~(5) Whether the violation was knowing and willful.~~

§ 1606.4 Grounds for debarment.

- (a) The Corporation may debar a recipient, on a showing of good cause, from receiving an additional award of financial assistance from the Corporation.
- (b) As used in paragraph (a) of this section, “good cause” means:
 - (1) A termination of financial assistance to the recipient pursuant to part 1640 of this chapter;
 - (2) A termination of financial assistance in whole of the most recent grant or contract of financial assistance;
 - (3) The substantial violation by the recipient of the restrictions delineated in § 1610.2 (a) and (b) of this chapter, provided that the violation occurred within 5 years prior to the receipt of the debarment notice by the recipient;
 - (4) Knowing entry by the recipient into:
 - (i) Any agreement or arrangement, including, but not limited to, a subgrant, subcontract, or other similar agreement, with an entity debarred by the Corporation during the period of debarment if so precluded by the terms of the debarment; or
 - (ii) An agreement for professional services with an IPA-independent public accountant or other auditor debarred by the Corporation during the period of debarment if so precluded by the terms of the debarment; or
 - (5) The filing of a lawsuit by a recipient, provided that the lawsuit:

- (i) Was filed on behalf of the recipient as plaintiff, rather than on behalf of a client of the recipient;
- (ii) Named the Corporation, or any agency or employee of a Federal, State, or local government as a defendant;
- (iii) Seeks judicial review of an action by the Corporation or such government agency that affects the recipient's status as a recipient of Federal funding, except for a lawsuit that seeks review of whether the Corporation or agency acted outside of its statutory authority or violated the recipient's constitutional rights; and
- (iv) Was initiated after December 23, 1998. the effective date of this rule.

§ 1606.5 ~~Termination and debarment p~~ Procedures.

(a) Before any final action is taken under this part a recipient's grant or contract may be terminated or a recipient may be debarred, the recipient will be provided notice and an opportunity to be heard as set out in this part.

(b) Prior to a preliminary determination involving a limited reduction of funding, the Corporation shall designate either the President or another senior Corporation employee to conduct any final review that is requested pursuant to § 1606.10 of this part. The Corporation shall ensure that the person so designated has had no prior involvement in the proceedings under this part so as to meet the criterion set out in § 1606.10(d) of this part.

§ 1606.6 Preliminary determination and final decision.

(a) When the Corporation has made a preliminary determination of one or more of the following, that a recipient's grant or contract should be terminated and/or that a recipient should be debarred, the Corporation ~~employee who has been designated by the President as the person to bring such actions (hereinafter referred to as the “designated employee”)~~ shall issue a written notice to the recipient and the Chair of the recipient's governing body: that a recipient's grant or contract should be terminated, that a limited reduction of funding shall be imposed, or that a recipient should be debarred. The notice shall:

- (1) State the substantial noncompliance that constitutes the grounds for the proposed action;
- (2) Identify, with reasonable specificity, any facts or documents relied upon as justification for the proposed action;

(3) Inform the recipient of the proposed ~~sanctions~~ amount and proposed effective date for the proposed action;

(4) Advise the recipient of its procedural rights for review of the proposed action under this part;~~to request:~~

~~(i) An informal conference under §1606.7; and~~

~~(ii) a hearing under §1606.8; and~~

(5) Inform the recipient of its right to receive interim funding pursuant to § 1606.13 of this part;

(6) Specify what, if any, corrective action the recipient can take to avoid the proposed action; and

(7) Summarize prior attempts, if any, for resolution of the substantial noncompliance.

(b) If the recipient does not request review, as provided for in this part, before the relevant time limits have expired, then the Corporation may issue a final decision to the recipient. No further appeal or review will be available under this part. an informal conference or a hearing within the time prescribed in §1606.7(a) or §1606.8(a) the preliminary determination shall become final.

§ 1606.7 Corrective action, informal conference, review of written materials, and final decision .

(a) If the Corporation proposes a corrective action in the preliminary determination pursuant to § 1606.6(a)(6) of this part, then the recipient may accept and implement the corrective action, in lieu of an informal conference or submission of written materials under this section, subject to the following requirements:

(1) Within 10 business days of receipt of the preliminary determination, the recipient may submit a draft compliance agreement to accept the terms of the proposed corrective action, which must include an implementation plan and timeline;

(2) If the Corporation approves the draft compliance agreement, including any modifications suggested by the recipient or the Corporation, then it shall be memorialized in a final compliance agreement signed by the Corporation and the recipient, which shall stay these proceedings;

- (3) If the recipient completes the terms of the written compliance agreement in a time and manner that is satisfactory to the Corporation, then the Corporation shall withdraw the preliminary determination; and
- (4) If the Corporation determines at any time that the recipient has not presented an acceptable draft compliance agreement, or has not fulfilled any terms of the final compliance agreement, then the Corporation shall notify the recipient in writing. Within 15 calendar days of that notice, the Corporation shall modify or affirm the preliminary determination as a draft final decision. The draft final decision shall summarize these attempts at resolution. The draft final decision need not engage in a detailed analysis of the failure to resolve the substantial noncompliance.

(b) A recipient may submit written materials in opposition to the preliminary determination, a request an informal conference within 30 days of receipt of the proposed decision, or both, as follows:

(1) for terminations or debarments, within 30 calendar days of receipt of the preliminary determination; or

(2) for limited reductions in funding, within 10 business days of receipt of the preliminary determination.

(c) Within 5 business days of receipt of a request for a conference, the Corporation designated employee shall notify the recipient of the time and place the conference will be held,. Some or all of the participants in the conference may attend via telephone, unless the recipient requests an in-person meeting between the Corporation and at least one representative of the recipient. If the recipient requests an in-person meeting, then other participants may attend via telephone. Alternative means of participation other than the telephone are permissible at the sole discretion of the Corporation.

(d) The designated employee shall conduct the informal conference shall be conducted by the Corporation employee who issued the preliminary determination or any other Corporation employee with a seniority level equivalent to the level of an office director or higher.

(e) At the informal conference, the designated employee Corporation and the recipient shall both have an opportunity to state their case, seek to narrow the issues, and explore the possibilities of settlement or compromise including implementation of corrective actions, and submit written materials.

~~The designated employee may modify, withdraw, or affirm the preliminary determination in writing, a copy of which shall be provided to the recipient within 10 days of the conclusion of the informal conference.~~

(f) If an informal conference is conducted or written materials are submitted in opposition to the proposed determination by the recipient, or both, the Corporation shall consider any written materials and any oral presentation or written materials submitted by the recipient at an informal conference. Based on any of these materials or the informal conference, or both, the Corporation shall modify, withdraw, or affirm the preliminary determination through a draft final decision in writing, which shall be provided to the recipient within the later of 15 calendar days after the conclusion of the informal conference or after the recipient of written materials in opposition to the proposed determination (when no informal conference is requested). Except for decisions to withdraw the preliminary determination, the draft final decision shall include a summary of the issues raised in the informal conference and presented in any written materials. The draft final decision need not engage in a detailed analysis of all issues raised.

(g) If the recipient does not request further process, as provided for in this part, then, after the relevant time limits have expired, the Corporation shall notify the recipient that no further appeal or review will be available under this part and may proceed to issue the final decision.

§ 1606.8 Hearing for a termination or debarment.

(a) For terminations or debarments only, the recipient may make a written request for a hearing within the later of: 30 calendar days of its receipt of the preliminary determination, or within 15 calendar days of receipt of the draft final decision issued under § 1606.7, as the case may be. ~~written determination issued by the designated employee after the conclusion of the informal conference.~~

(b) Within 10 business days after receipt of a request for a hearing, the Corporation shall notify the recipient in writing of the date, time, and place of the hearing and the names of the hearing officer and of the attorney who will represent the Corporation. The time, date, and location of the hearing may be changed upon agreement of the Corporation and the recipient.

(c) A hearing officer shall be appointed by the President or designee and may be an employee of the Corporation. The hearing officer shall not have been involved in the current termination or debarment action, and the President or designee shall determine that the person is qualified to preside over the hearing as an impartial decision maker. An impartial decision maker is a person who has not formed a prejudgment on the case and does not have a pecuniary interest or personal bias in the outcome of the proceeding.

(d) The hearing shall be scheduled to commence at the earliest appropriate date, ordinarily not later than 30 calendar days after the Corporation receives the notice required by paragraph (b) of this section.

(e) The hearing officer shall preside over and conduct a full and fair hearing, avoid delay, maintain order, and insure that a record sufficient for full disclosure of the facts and issues is maintained.

(f) The hearing shall be open to the public unless, for good cause and the interests of justice, the hearing officer determines otherwise.

(g) The Corporation and the recipient shall be entitled to be represented by counsel or by another person.

(h) At the hearing, the Corporation and the recipient each may present its case by oral or documentary evidence, conduct examination and cross-examination of witnesses, examine any documents submitted, and submit rebuttal evidence.

(i) The hearing officer shall not be bound by the technical rules of evidence and may make any procedural or evidentiary ruling that may help to insure full disclosure of the facts, to maintain order, or to avoid delay. Irrelevant, immaterial, repetitious or unduly prejudicial matter may be excluded.

(j) Official notice may be taken of published policies, rules, regulations, guidelines, and instructions of the Corporation, of any matter of which judicial notice may be taken in a Federal court, or of any other matter whose existence, authenticity, or accuracy is not open to serious question.

(k) A stenographic or electronic record shall be made in a manner determined by the hearing officer, and a copy shall be made available to the recipient at no cost.

(l) The Corporation shall have the initial burden to show grounds for a termination or debarment. The burden of persuasion shall then shift to the recipient to show by a preponderance of evidence on the record that its funds should not be terminated or that it should not be ~~debarred-disbarred~~.

§ 1606.9 Recommended decision for a termination or debarment.

(a) For termination or debarment hearings under § 1606.8, Wwithin 20 calendar days after the conclusion of the hearing, the hearing officer shall issue a written recommended decision to the recipient and the Corporation, which may:

(1) Terminate financial assistance to the recipient commencing as of a specific date; ~~or~~

(2) Impose a limited reduction of funding commencing as of a specific date;

(3) Continue the recipient's current level of financial assistance under the grant or contract, subject to any modification or condition that may be deemed necessary on the basis of information adduced at the hearing; ~~and/or~~

(4) Debar the recipient from receiving an additional award of financial assistance from the Corporation.

(b) The recommended decision shall contain findings of the significant and relevant facts and shall state the reasons for the decision. Findings of fact shall be based solely on the record of, and the evidence adduced at the hearing or on matters of which official notice was taken.

§ 1606.10 Final decision for a termination, debarment, or limited reduction of funding.

(a) If neither the Corporation nor the recipient requests review by the President ~~a recommended decision shall become final 10 days after receipt by the recipient. of a draft final decision pursuant to § 1606.7 or a recommended decision pursuant to § 1606.9, as provided for in this part, within 10 business days after receipt by the recipient, then the Corporation shall issue to the recipient a final decision containing either the draft final decision or the recommended decision, as the case may be. No further appeal or review will be available under this part.~~

(b) The recipient or the Corporation may seek review by the President of a draft final decision or a recommended decision. A request shall be made in writing within 10 business days after receipt of the draft final decision or recommended decision by the party seeking review and shall state in detail the reasons for seeking review.

(c) The President's review shall be based solely on the ~~information in the~~ administrative record of the ~~termination or debarment~~ proceedings, including the appeal to the President, and any additional submissions, either oral or in writing, that the President may request. A recipient shall be given a copy of, and an opportunity to respond to, any additional submissions made to the President. All submissions and responses made to the President shall become part of the administrative record. Upon request, the Corporation shall provide a copy of the administrative record to the recipient.

(d) For an appeal of a draft final decision involving a limited reduction of funding pursuant to § 1606.7 (for which there is no right to a hearing under § 1606.8) the President may not review the appeal if the President has had prior involvement in the proceedings under this part. If the President cannot review the appeal, or the President chooses not to do so, then the appeal shall be reviewed by either the individual designated to do so pursuant to § 1606.5(b) of this part, or by another senior Corporation employee designated by the President who has not had prior involvement in the proceedings under this part.

(e) As soon as practicable after receipt of the request for review of a draft final decision or a recommended decision, but not later than 30 calendar days thereafter ~~the request for review~~, the President ~~or designee may shall~~ adopt, modify, or reverse the draft final decision or the recommended decision, or direct further consideration of the matter. In the event of modification or reversal of a recommended decision pursuant to § 1606.9, ~~the President's this~~ decision shall conform to the requirements of § 1606.9(b).

(f) The ~~President's~~ decision of the President or designee under this section shall become final upon receipt by the recipient.

§ 1606.11 Qualifications on hearing procedures.

(a) Except as modified by paragraph (c) of this section, the hearing rights set out in §§ 1606.6 through 1606.10 shall apply to any action to debar a recipient or to terminate a recipient's funding.

(b) The Corporation may simultaneously take action to debar and terminate a recipient within the same hearing procedure that is set out in §§ 1606.6 through 1606.10 of this part. In such a case, the same hearing officer shall oversee both the termination and debarment actions in the same hearing.

(c) If the Corporation does not simultaneously take action to debar and terminate a recipient under paragraph (b) of this section and initiates a debarment action based on a prior termination under § 1606.4(b)(1) or (2), the hearing procedures set out in § 1606.6 through 1606.10 shall not apply. Instead:

(1) The President shall appoint a hearing officer, as described in § 1606.8(c), to review the matter and make a written recommended decision on debarment.

(2) The hearing officer's recommended decision recommendation shall be based solely on the information in the administrative record of the termination proceedings providing grounds for the debarment and any additional submissions, either oral or in writing, that the hearing officer may request. The recipient shall be given a copy of and an opportunity to respond to any additional submissions made to the hearing officer. All submissions and responses made to the hearing officer shall become part of the administrative record.

(3) If neither party appeals the hearing officer's recommended decision recommendation within 10 business days of receipt of the recommended decision, the decision shall become final and the final decision shall be issued by the Corporation to the recipient within 5 business days.

(4) Either party may appeal the recommended decision to the President who shall review the matter and issue a final written decision pursuant to § 1606.9(b).

(d) All final debarment decisions shall state the effective date of the debarment and the period of debarment, which shall be commensurate with the seriousness of the cause for debarment but shall not be for longer than 6 years.

(e) The Corporation may reverse a debarment decision upon request for the following reasons:

- (1) Newly discovered material evidence;
- (2) Reversal of the conviction or civil judgment upon which the debarment was based;
- (3) Bona fide change in ownership or management of a recipient;
- (4) Elimination of other causes for which the debarment was imposed; or
- (5) Other reasons the Corporation deems appropriate.

§ 1606.12 Time and waiver.

(a) Except for the 6-year time limit for debarments in § 1606.11(c), any period of time provided in these rules may, upon good cause shown and determined, be extended in writing:

- (1) By the Corporation designated employee who issued the preliminary decision, unless until a hearing officer has been appointed;
- (2) By the hearing officer, until the recommended decision has been issued; or
- (3) By the President at any time.

(b) Failure by the Corporation to meet a time requirement of this part does not preclude the Corporation from terminating a recipient's grant or contract with the Corporation or imposing a limited reduction of funding.

§ 1606.13 Interim and ~~termination~~ other funding ~~reprogramming~~, implementation.

(a) Pending the completion of termination or limited reduction of funding proceedings under this part, the Corporation shall provide the recipient with the level of financial assistance provided for under its current grant or contract for financial assistance with the Corporation.

(b) After a final decision has been made to terminate a recipient's grant or contract or to impose a limited reduction of funding, the recipient loses all rights to the terminated or reduced funds.

(c) After a final decision has been made to terminate a recipient's grant or contract, the Corporation may authorize termination-closeout or transition funding, or both, if necessary to enable the recipient to close or transfer current matters in a manner consistent with the recipient's professional responsibilities to its present clients.

(d) The Corporation has sole discretion to determine the manner in which the final decision is implemented. The Corporation's discretion includes, but is not limited to the decision to pro-rate the amount of funds reduced over the remaining disbursements in the funding term or deduct the sum in a single disbursement, or any other method the Corporation deems appropriate.

(e) Funds recovered by the Corporation pursuant to a termination or limited reduction of funding shall be used in the same service area from which they were recovered or will be-reallocated by the Corporation for basic field purposes at its sole discretion.

§ 1606.14 Recompensation.

After a final decision has been issued by the Corporation terminating financial assistance to a recipient in whole for any service area, the Corporation shall implement a new competitive bidding process for the affected service area. Until a new recipient has been awarded a grant pursuant to such process, the Corporation shall take all practical steps to ensure the continued provision of legal assistance in the service area pursuant to § 1634.11.

PART 1614—PRIVATE ATTORNEY INVOLVEMENT

§ 1614.7 Failure to Comply.

(b) The withholding of funds under this section shall not be construed as a termination of financial assistance any action under part 45 CFR part 1606. of these regulations or a denial of refunding under part 1625 of these regulations

Part 1618—ENFORCEMENT PROCEDURES

Part 1618—Enforcement Procedures

§ 1618.1 Purpose.

In order to ensure insure uniform and consistent interpretation and application of the provisions of the LSC Act, the Corporation's appropriations act or other law applicable to

~~LSC funds, a Corporation rule, regulation, guideline or instruction, or the terms and conditions of the recipient's grant or contract with the Corporation Act~~, and to prevent a question of whether ~~these requirements have~~~~the Act has~~ been violated from becoming an ancillary issue in any case undertaken by a recipient, this part establishes a systematic procedure for enforcing compliance with ~~them~~ ~~the Act~~.

§ 1618.2 Definitions.

~~As used in this part, Act means the Legal Services Corporation Act or the rules and regulations issued by the Corporation.~~

~~(a) LSC requirements means the provisions of the LSC Act, the Corporation's appropriations act or other law applicable to LSC funds, a Corporation rule, regulation, guideline or instruction, or the terms or conditions of the recipient's grant or contract with the Corporation.~~

~~(b) Violation means a violation by the recipient of the LSC requirements.~~

§ 1618.3 Complaints.

A complaint of a violation ~~of the Act~~ by a recipient or an employee of a recipient may be made to the recipient, the State Advisory Council, or the Corporation.

§ 1618.4 Duties of Recipients.

(a) A recipient shall:

(1) Advise its employees of their responsibilities under ~~the LSC requirements~~~~the Act~~; ~~and~~

(2) Establish procedures, consistent with the notice and hearing requirements of section 1011 of the LSC Act, for determining whether an employee has ~~committed a violation~~ ~~violated a prohibition of the Act~~; ~~and whether the violation merits a sanction based on consideration of the totality of the circumstances~~; ~~and shall~~

(3) ~~e~~Establish a policy for determining the appropriate sanction to be imposed for a violation, including:

(i) Administrative reprimand if a violation is found to be minor and unintentional, or otherwise affected by mitigating circumstances;

(ii) Suspension and termination of employment; and

(iii) Other sanctions appropriate for enforcement of the LSC requirements Act; ~~but~~

(b) Before suspending or terminating the employment of any person for a violation violating a prohibition of the Act, a recipient shall consult the Corporation to ensure insure that its interpretation of these requirements Act is consistent with Corporation policy.

(c) This section provides procedural requirements between the Corporation and recipients. It does not create rights for recipient employees.

§ 1618.5 Duties of the Corporation.

(a) Whenever the Corporation learns that there is reason to believe that a recipient or a recipient's an employee may have committed a violation violated the Act, or failed to comply with a term of its Corporation grant or contract, the Corporation shall investigate the matter promptly and attempt to resolve it through informal consultation with the recipient. Such actions may be limited to determining if the recipient is sufficiently investigating and resolving the matter itself.

(b) Whenever there is substantial reason to believe that a recipient has persistently or intentionally violated the LSC requirements the Act, or, after notice, has failed to take appropriate remedial or disciplinary action to insure ensure compliance by its employees with the LSC requirements Act, and attempts at informal resolution have been unsuccessful, the Corporation may proceed to suspend or terminate financial support of the recipient, or impose a lesser reduction in funding, pursuant to the procedures set forth in parts 1623 and 1606 part 1612, or may take other action to enforce compliance with the LSC requirements Act.

(c) Whenever the Corporation determines that a recipient has committed a violation, that corrective actions by the recipient are required to remedy the violation and/or prevent recurrence of the violation, and that imposition of special grant conditions are needed prior to the next grant renewal or competition for the service area, the Corporation may immediately impose Special Grant Conditions on the recipient to require completion of those corrective actions.

Part 1623 –SUSPENSION PROCEDURES

§ 1623.1 Purpose.

The purpose of this rule is to:

- (a) Ensure that the Corporation is able to take prompt action when necessary to safeguard LSC funds or to ensure the compliance of a recipient with applicable provisions of law, or a rule, regulation, guideline or instruction issued by the Corporation, or the terms and conditions of a recipient's grant or contract with the Corporation; and
- (b) Provide procedures for prompt review that will ensure informed deliberation by the Corporation when it has made a proposed determination that financial assistance to a recipient should be suspended.

§ 1623.2 Definitions.

[These definitions, and others applicable in Part 1623, appear in Part 1606.]

(a) For the purposes of this part the definitions in 45 CFR part 1606 shall apply and also:

(a) Knowing and willful means that the recipient had actual knowledge of the fact that its action or lack thereof constituted a violation and despite such knowledge, undertook or failed to undertake the action.

(b) Recipient means the same as the term is defined in 45 C.F.R. 1600.1 any grantee or contractor receiving legal assistance from the Corporation under section 1006(a)(1)(A) of the LSC Act

(b) Suspension means an action taken during the term of the recipient's current year's grant or contract with the Corporation that withholds financial assistance to a recipient, in whole or in part, until the end of the suspension period pending prompt corrective action by the recipient or a decision by the Corporation to initiate termination proceedings.

§ 1623.3 Grounds for suspension.

(a) Financial assistance provided to a recipient may be suspended when the Corporation determines that there has been a substantial violation by the recipient of the LSC requirements, an applicable provision of law, or a rule, regulation, guideline or instruction issued by the Corporation, or a term or condition of the recipient's current grant or contract with the Corporation; and the Corporation has reason to believe that prompt action is necessary to:

- (1) Safeguard LSC funds; or
- (2) Ensure immediate corrective action necessary to bring a recipient into compliance with an applicable provision of law, or a rule, regulation, guideline or instruction issued by the Corporation, or the terms and conditions of the recipient's grant or contract with the Corporation.

[The definition of a substantial violation now appears in the definitions section of Part 1606, which is cross referenced by the definitions section of Part 1623.]

~~(b) A determination of whether there has been a substantial violation for the purposes of paragraph (a) of this section will be based on consideration of the following criteria:~~

- ~~(1) The number of restrictions or requirements violated;~~
- ~~(2) Whether the violation represents an instance of noncompliance with a substantive statutory or regulatory restriction or requirement, rather than an instance of noncompliance with a non-substantive technical or procedural requirement;~~
- ~~(3) The extent to which the violation is part of a pattern of noncompliance with LSC requirements or restrictions;~~
- ~~(4) The extent to which the recipient failed to take action to cure the violation when it became aware of the violation; and~~
- ~~(5) Whether the violation was knowing and willful.~~

(b) Financial assistance provided to a recipient may also be suspended by the Corporation pursuant to a recommendation by the Office of Inspector General when the recipient has failed to have an acceptable audit in accordance with the guidance promulgated by the Corporation's Office of Inspector General.

§ 1623.4 Suspension procedures.

(a) Prior to a preliminary determination involving a suspension of funding, the Corporation shall designate either the President or another senior Corporation employee to conduct any final review that is requested pursuant this part. The Corporation shall ensure that the person so designated has had no prior involvement in the proceedings under this part so as to meet the criterion of impartiality described in this section.

(b) When the Corporation has made a proposed determination, based on the grounds set out in § 1623.3, that financial assistance to a recipient should be suspended, the Corporation shall serve a written proposed determination on the recipient. The proposed determination shall:

- (1) State the grounds and effective date for the proposed suspension;
- (2) Identify, with reasonable specificity, any facts or documents relied upon as justification for the suspension;
- (3) Specify what, if any, prompt corrective action the recipient can take to avoid or end the suspension;
- (4) Advise the recipient that it may request, within 5 business days of receipt of the proposed determination, an informal meeting with the Corporation at which it may attempt to show that the proposed suspension should not be imposed; and
- (5) Advise the recipient that, within 10 business days of its receipt of the proposed determination and without regard to whether it requests an informal meeting, it may submit written materials in opposition to the proposed suspension.

(c) If the recipient requests an informal meeting with the Corporation, the Corporation shall designate the time and place for the meeting. The meeting shall occur within 5 business days after the recipient's request is received.

(d) The informal meeting shall be conducted by the Corporation employee who issued the preliminary determination or any other Corporation employee at the level with a seniority level equivalent to the level of an office director or higher.

(e) At the informal meeting, the Corporation and the recipient shall both have an opportunity to state their case, seek to narrow the issues, explore the possibilities of settlement or compromise including implementation of corrective actions, and submit written materials.

(f) The Corporation shall consider any written materials submitted by the recipient in opposition to the proposed suspension and any oral presentation or written materials submitted by the recipient at an informal meeting. If, after considering such materials, the Corporation determines that the recipient has failed to show that the suspension should not become effective, the Corporation may issue a written final determination to suspend financial assistance to the recipient in whole or in part and under such terms and conditions the Corporation deems appropriate and necessary. The final determination shall include a summary of the issues raised in the informal conference

and presented in any written materials. The final determination need not engage in a detailed analysis of all issues raised.

(g) The final determination shall be promptly transmitted to the recipient in a manner that verifies receipt of the determination by the recipient, and the suspension shall become effective when the final determination is received by the recipient or on such later date as is specified therein.

(h) If a suspension lasts for more than 30 days, then the recipient may seek review of the suspension by the President. A request may be made in writing on the thirty-first day or any day thereafter, and shall state, in detail, the reasons for seeking review.

- 1) The President may not review the suspension appeal if the President has had prior involvement in the suspension proceedings. If the President cannot review, or the President chooses not to do so, then the appeal shall be reviewed by either the individual designated to do so pursuant to § 1623.4(a) of this part, or by another senior Corporation employee designated by the President who has not had prior involvement in the suspension proceedings.
- 2) The President's review shall be based on the administrative record of the proceedings, including the appeal to the President, and any additional submissions, either oral or in writing that the President may request. A recipient shall be given a copy of, and an opportunity to respond to, any additional submissions made to the President. All submissions and responses made to the President shall become part of the administrative record. Upon request, the Corporation shall provide a copy of the administrative record to the recipient.
- 3) The President shall affirm, modify, or terminate the suspension through a suspension appeal decision within 15 calendar days of receipt of the appeal by the Corporation, unless the Corporation and the recipient agree to a later date.

(i) The Corporation may at any time rescind or modify the terms of the final determination to suspend and, on written notice to the recipient, may reinstate the suspension without further proceedings under this part.

[Subsection (j) is broken off from subsection (i) for clarity.]

(j) Except as provided in § 1623.4(k) of this part ~~paragraph (f) of this section~~, the total time of a suspension shall not exceed 90 ~~30~~ calendar days, unless the Corporation and the recipient agree to a continuation of the suspension ~~for up to a total of 60 days~~ without further proceedings under this part.

(k) When the suspension is based on the grounds in § 1623.3(b) of this part, a recipient's funds may be suspended until an acceptable audit is completed. No appeal to the President will be available for audit-based suspensions pursuant to § 1623.3(b).

§ 1623.5 Time extensions and waiver.

(a) Except for the time limits in §§ 1623.4(i) and (j) ~~§ 1623.4(e)~~, any period of time provided in this part may be extended by the Corporation for good cause. Requests for extensions of time shall be considered in light of the overall objective that the procedures prescribed by this part ordinarily shall be concluded within 30 calendar days of the service of the proposed determination.

(b) Any other provision of this part may be waived or modified by agreement of the recipient and the Corporation for good cause.

(c) Failure by the Corporation to meet a time requirement of this part shall not preclude the Corporation from suspending a recipient's grant or contract with the Corporation.

§ 1623.6 Interim funding.

(a) Pending the completion of suspension proceedings under this part, the Corporation shall provide the recipient with the level of financial assistance provided for under its current grant or contract with the Corporation.

(b) Funds withheld pursuant to a suspension shall be returned-released to the recipient at the end of the suspension period.

Representation of Criminal Proceedings in Tribal Courts



TO: Operations and Regulations Committee

FROM: Kara Ward, Assistant General Counsel

THROUGH: Victor M. Fortuno, General Counsel

SUBJECT: Approval to Engage in Rulemaking on Representation of Criminal Defendants in Tribal Court

DATE: January 9, 2013

On behalf of Management, the Office of Legal Affairs (“OLA”) requests that the Operations and Regulations Committee (“Committee”) recommend to the Board of Directors (“Board”) that they authorize consideration of rulemaking options on the use of LSC funds for representation of eligible clients in any criminal matter before a tribal court.

- I) Background Information.
 - a. Legislative Action.

The Indian Arts and Crafts Amendment Act of 2010, Pub. L. 111-211, 124 Stat. 2258, 2282, amended the LSC Act, 42 U.S.C. 2996f(b) (“the LSC Act”), to provide authority for LSC funds to be used by grant recipients to represent eligible persons in any and all criminal proceedings in tribal courts. Previously, the LSC Act and related regulations in 45 C.F.R. Part 1613 permitted representation only in criminal matters involving misdemeanors or lesser offenses in tribal courts.

A subsection of the Indian Arts and Crafts Amendment Act of 2010, the same legislation that authorized LSC funds to be used for representation of any eligible criminal defendant in tribal courts, also included new authorizations related to tribal court criminal proceedings in a subsection that is known as the “Tribal Law and Order Act of 2010.”

The Tribal Law and Order Act of 2010 increased the maximum jail sentence that any tribal court could impose from one to three years for any single offense. This new maximum sentencing authority gives tribal governments the option of enacting new laws that allow the tribal courts to adjudicate more serious crimes, particularly those associated with domestic violence and sexual assault.

Previously, tribal governments generally declined to prosecute serious crimes due to the limited sentencing authority, and they referred the matters to the local U.S. Attorney's offices for prosecution. Indigent defendants in federal criminal prosecutions were eligible for representation by public defenders.

The Tribal Law and Order Act of 2010 includes a provision that requires tribal governments to bear the expense of providing indigent criminal defendants with counsel when the offense with which they are charged carries the possibility of imprisonment for one year up to new the statutory limit of three years. Prior to the law's enactment, there was no guarantee that indigent defendants in tribal criminal proceedings would be provided with counsel for any term of imprisonment.

The legislative history of the Tribal Law and Order Act of 2010 indicates that the conforming change to the LSC Act was made to address the new requirement that if tribal governments authorize the new sentencing authority, they must also bear the expense of providing representation:

The Committee also acknowledges that in order for the options established under this section to be made available to all tribes, Congress must provide funding for tribal public defender programs. To address this concern, section 304(b) clarifies that legal services funding can be used for public defender services for all crimes charged in tribal court systems, as opposed to only misdemeanors as is provided under current law.
S. Rep. No. 11-93, at 18 (2009).

If tribal governments elect to expand the jurisdiction of their courts in criminal cases to include more serious offenses as a result of the new maximum sentencing authority, the volume and seriousness of crimes litigated before tribal courts may increase.

b. LSC Response.

On November 8, 2012, the LSC issued a program letter to all recipients entitled, "Criminal Proceedings in Tribal Courts." The letter advised recipients of the change in the LSC Act, and, pending Board action to amend LSC's regulations, allowed recipients' voluntary use of LSC funds to undertake more serious criminal matters in tribal courts on behalf of eligible persons.

LSC regulations prohibiting representation of eligible clients before a tribal court for more serious criminal offenses (not including misdemeanors or lesser crimes) have been in place since 1978. The regulations track directly to the previous statutory prohibition on criminal representation unless the representation involved misdemeanors or lesser offenses in tribal courts. The new statutory language permits the representation in tribal courts for more serious criminal offenses, but it does not require any recipient to undertake such representation. Unless the regulations are amended, they will, by their terms, prohibit recipients from representing eligible clients in tribal courts for more serious crimes.

The current regulatory scheme carves out a narrow exception for recipients to use LSC funds for criminal representation if the representation is part of a generally applicable program for court appointments in the jurisdiction, or if professional responsibility requires the representation. The LSC's regulations permit a recipient staff attorney to decline an appointed representation if the matter is not consistent with the recipient organizations' primary responsibility to provide civil legal aid or the appointment is not a part of a program that applies to all members of the jurisdiction's bar. The exception for appointed representations and the option for an appointed staff attorney to decline a representation do not apply to misdemeanors or lesser offenses in tribal courts, which are excluded from the regulations' definition of "criminal proceedings."

II) Analysis of Issues.

As a result of the recent statutory changes entitling criminal defendants in tribal courts to representation for crimes carrying the possibility of imprisonment for one or more years, LSC recipient organizations who serve clients on or near tribal lands may see an increase in the number of requests for representation in criminal matters by eligible persons. LSC recipient organizations may also see an increase in the number of court appointments to represent criminal defendants in tribal courts by virtue of the fact that they are members of that jurisdiction's bar.

Should the Board decide to revise the regulations to align with the new statutory authorization for expanded representation in criminal matters before tribal courts, changes to the sections of the regulations regarding the circumstances under which a recipient's staff attorney may decline a criminal case court appointment should be considered in parallel.

III) Discussion of the Rulemaking Protocol.

LSC's Rulemaking Protocol (67 FR 69762) provides that:

The impetus for a rulemaking may come from any one of several sources; Congressional directive; internal LSC initiative (Board or Committee members and/or staff); or a formal request from a member of the regulated community or general public. Decisions on whether to undertake rulemakings will be made by the Board upon the recommendation of the Committee.

Notices, 67 Fed. Reg. 69763 (Nov. 19, 2002).

When Management believes that rulemaking should be undertaken on a given topic, it makes its recommendation to the Committee, which then determines whether to recommend to the Board that the Board initiate the rulemaking. In most instances, the Committee will base its recommendation upon consideration of a Rulemaking Options Paper ("ROP") prepared by OLA. The ROP will contain a discussion of the subject for the potential rulemaking, and will include an outline of the policy and legal issues involved, as well as the mechanisms to accomplish the rulemaking.

IV) Next Steps.

With the Board's approval, the Office of Legal Affairs will develop a robust ROP for the Committee review at April meeting.

Attachments.

Attachment:

a. LSC Act

As a result of The Indian Arts and Crafts Amendment Act of 2010, Section 10007(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.

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.

b. Regulations

45 CFR 1613 - RESTRICTIONS ON LEGAL ASSISTANCE WITH RESPECT TO CRIMINAL PROCEEDINGS (as of January 9, 2012)

§ 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
(please see following page)



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.

Private Attorney Involvement



TO: Operations and Regulations Committee

FROM: Kara Ward, Assistant General Counsel

THROUGH: Victor M. Fortuno, General Counsel

SUBJECT: Approval to Engage in Rulemaking on PAI Based on the Pro Bono Task Force Recommendations

DATE: January 9, 2013

On behalf of Management, the Office of Legal Affairs (“OLA”) requests that the Operations and Regulations Committee (“Committee”) recommend that the Board of Directors (“Board”) authorize an exploration into rulemaking options for revising LSC’s Private Attorney Involvement (PAI) Regulation pursuant to the recommendations made by the Corporation’s Pro Bono Task Force (“Task Force”).

I) Background.

In October 2012, the Pro Bono Task Force released its findings and recommendations. The Task Force, convened by LSC’s Board of Directors and co-chaired by Board members Martha Minow and Harry J.F. Korrell III, included more than 60 distinguished leaders and experts from the judiciary, major corporations, private practice, law schools, the federal government, and the legal aid community. Its charge was to identify and recommend innovative ways to enhance pro bono throughout the country.

One of the Task Force’s recommendations addresses LSC’s PAI regulation which requires grantees to expend an amount equivalent to 12.5 percent of their basic field grants to encourage the involvement of private attorneys in the delivery of legal assistance to eligible clients. The regulation prescribes certain activities that can be counted as meeting its PAI requirement. The Task Force found that the PAI regulation poses a number of challenges to grantees as they seek to expand their pro bono resources and assistance. To address these challenges, the Pro Bono Task Force recommended the following revisions to the regulation:

- 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.

- 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.
- 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.

II) Discussion of the Rulemaking Protocol.

LSC's Rulemaking Protocol (67 FR 69762) provides that

“The impetus for a rulemaking may come from any one of several sources; Congressional directive; internal LSC initiative (Board or Committee members and/or staff); or a formal request from a member of the regulated community or general public. Decisions on whether to undertake rulemakings will be made by the Board upon the recommendation of the Committee.”
67 FR 69763.

When Management believes that rulemaking on a given topic should be undertaken, it makes its recommendation to the Committee, which then determines whether to recommend to the Board that the Board initiate the rulemaking. In most instances, the Committee will base its recommendation upon consideration of a Rulemaking Options Paper (“ROP”) prepared by the Office of Legal Affairs (OLA”). The ROP will contain a discussion of the subject for the potential rulemaking, and will include an outline of the policy and legal issues involved, as well as the mechanisms to accomplish the rulemaking.

III) Next Steps.

Management requests that the Committee recommend to the Board that LSC fully explore rulemaking options regarding the PAI requirement in light of the findings and recommendations of the Task Force. The next step is the development of a Rulemaking Options Paper for the Committee's review.

Committee Evaluation

2012 OPERATIONS AND REGULATIONS COMMITTEE EVALUATIONS

Members very positive.

Members Liked:

- Civility and seriousness of purpose.

Ideas for Improvement Include:

- More balanced presentations on matters that LSC management is promoting; and
- Better way to mark up documents in discussion (technology solution).

Future:

- Now that we have a revised charter, need to adopt timeline to accomplish tasks and begin to tackle systematically; and
- Advance general regulatory review and move to fulfill operations mandate.

**V. Institutional Advancement
Committee**

INSTITUTIONAL ADVANCEMENT COMMITTEE

January 25, 2013

Agenda

OPEN SESSION

1. Approval of agenda
2. Approval of minutes of the Committee's open session meeting of September 30, 2012
3. Report on the status of recruitment of a Chief Development Officer
4. Discussion of Committee's evaluations for 2012 and the Committee's goals for 2013
5. Discussion of plans for LSC's 40th anniversary celebration
6. Public comment
7. Consider and act on other business

CLOSED SESSION

8. Approval of minutes of the Committee's closed session meeting of September 30, 2012
9. Discussion of prospective funders for LSC's development activities
10. Discussion of prospective funders for implementing the Pro Bono Task Force report
11. Consider and act on adjournment of meeting

**Draft Minutes of the Institutional
Advancement Committee's Open Session
meeting of September 30, 2012**

Legal Services Corporation
Meeting of the Institutional Advancement Committee
Open Session
Sunday, September 30, 2012

DRAFT MINUTES

Chairman John G. Levi convened an open session meeting of the Legal Services Corporation's ("LSC") Institutional Advancement Committee ("the Committee") at 4:45 p.m. on Sunday, September 30, 2012. The meeting was held at the Hilton Durham Hotel, 3800 Hillsborough Road, Durham, North Carolina 27705.

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:

Laurie I. Mikva

Also attending were:

James J. Sandman	President
Rebecca Fertig	Special Assistant to the President
Allan Tanenbaum	Non-director member, LSC Finance Committee
Don Saunders	National Legal Aid and Defenders Association (NLADA)
Terry Brooks	American Bar Association (ABA)

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

Chairman Levi called the open session meeting of the Committee to order.

MOTION

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

VOTE

The motion passed by voice vote.

MOTION

Dean Minow moved to approve the minutes of the Committee's open session meeting of July 27, 2012. Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

Chairman Levi inquired whether the Chief Development Officer position description required Board action. President Sandman responded that no Board action was necessary.

Chairman Levi invited public comment and received none.

There was no other business to consider.

Chairman Levi adjourned the meeting into closed session at 4:50 p.m.

Committee Evaluation

2012 INSTITUTIONAL DEVELOPMENT COMMITTEE EVALUATIONS

Members positive. One member concerned with lack of sufficient materials to review.

Members Liked:

- Goals;
- Recognition of need for development office and follow up on it;
- Entrepreneurial and creative attitude

Ideas for Improvement Include:

- Repeated discussion of same issues.
- Need to be better at identifying risks and minimizing impact; and
- Hire staff development officer.

Future:

- Implement development plan. Can't anticipate every contingency; need to accept risk of going forward and initiate development work; and
- Turn great ideas into action and flow of funds. Generate annual fundable proposal.

**VI. Governance & Performance Review
Committee**

GOVERNANCE AND PERFORMANCE REVIEW COMMITTEE

January 26, 2013

Agenda

OPEN SESSION

1. Approval of agenda
2. Approval of minutes of the Committee's meeting of September 30, 2012
3. Staff Reports on
 - 2012 Board and Board Member self-evaluations
 - 2012 Committee evaluations
 - Staff report on progress in implementing GAO recommendations
4. Report on Public Welfare Foundation grant
 - Presentation by Jim Sandman
5. Discussion of President's evaluation for 2012
6. Discussion of the Inspector General's evaluation for 2012
7. Consider and act on other business
8. Public comment
9. Consider and act on motion to adjourn meeting

**Draft Minutes of the Governance &
Performance Review Committee's
Open Session meeting
of September 30, 2012**

Legal Services Corporation
Meeting of the Governance & Performance Review Committee
Open Session
Sunday, September 30, 2012

DRAFT MINUTES

Chair Martha L. Minow convened an open session meeting of the Legal Services Corporation's ("LSC") Governance & Performance Review Committee ("the Committee") at 2:02 p.m. on Sunday, September 30, 2012. The meeting was held at the Hilton Durham Hotel, 3800 Hillsborough Road, Durham, North Carolina 27705.

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:

Victor B. Maddox
Father Pius Pietrzyk

Also attending were:

Minutes: Sunday, September 30, 2012: Open Session Meeting of the Governance & Performance Review Committee
Page 1 of 3

James J. Sandman	President
Rebecca Fertig	Special Assistant to the President
Mark Freedman	Senior Assistant General Counsel, Office of Legal Affairs
Lynn Jennings	Vice President for Grants Management
Jeffrey E. Schanz	Inspector General, Office of the Inspector General (OIG)
Matthew Glover	Associate Inspector General for Management and Evaluation (OIG)
Ronald “Dutch” Merryman	Assistant Inspector General for Audit, OIG
Carol Bergman	Director, Office of Government Relations and Public Affairs
Carl Rauscher	Director of Media Relations, Office of Government Relations and Public Affairs
Janet LaBella	Director, Office of Program Performance (OPP)
Herbert S. Garten	Non-Director Member, LSC Institutional Advancement Committee
Frank Strickland	Non-Director Member, LSC Institutional Advancement Committee
Chuck Greenfield	National Legal Aid and Defender Association (NLADA)
Terry Brooks	American Bar Association

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

Chair Minow called the open session meeting to order.

MOTION

Mr. Keckler moved to approve the agenda. Ms. Reiskin seconded the motion. The motion was treated as approved.

MOTION

Mr. Keckler moved to approve the minutes of the Committee's July 27, 2012 meeting.

Ms. Reiskin seconded the motion. The motion was treated as approved.

Ms. Bergman gave a report on the progress in implementing GAO recommendations.

Ms. Bergman answered Committee members' questions.

President Sandman gave a report on the status of the Public Welfare Foundation grant, which LSC received earlier in the year.

There was no other business to consider.

Chair Minow invited public comment and received none.

MOTION

Mr. Keckler moved to adjourn the meeting. Board Chairman Levi seconded the motion.

The open session meeting of the Committee adjourned at 2:17 p.m.

2012 Committee Evaluation

2012 AUDIT COMMITTEE EVALUATIONS

All 3 members gave positive evaluations.

Members liked:

- Focused agenda;
- Members prepared; and
- Leadership of the chair.

Ideas for improvement include:

- Finding that the discussion time is too limited;
- Desire for opportunity to informally get to know other members; and
- Greater focus on the OIG.

Future:

- Improved coordination with OIG;
- Greater involvement in the financial report process & LSC's internal control structure;
- Implement new charter; and
- Improve internal controls of grantees

2012 Board Evaluations

2012 FINANCE COMMITTEE EVALUATIONS

All 5 members gave positive reviews.

Members liked:

- Thorough attention;
- Respect for others' opinions;
- Meetings run professionally;
- Members' skill sets;
- Presentations;
- Ability to advance mission.

Ideas for improvement include:

- More attention to long term;
- "More info from congressional requests;"
- More consistently set up telephonic meetings between Board meetings to get regular financial reports; and
- Better technology.

Future:

- Look at alternative funding sources; and
- How to better tell the LSC story.

2012 GOVERNANCE AND PERFORMANCE REVIEW COMMITTEE EVALUATIONS

Members generally positive.

Members Liked:

- Tone;
- Chair;
- Meetings well run and efficient;
- Respectful of others' opinions;
- Progress on GAO

Ideas for Improvement Include:

- Better understanding of GAO's role;
- Updates on implementation of Fiscal Oversight Task Force
- Updates on outstanding issues; and
- If Committee to have significant role in research, suggest having a semi-annual staff briefing.

Future:

- Identify new agenda items;
- Comprehensive review of charter & LSC's governance;
- Ensure that best practices are available to grantees;
- Align performance reviews to achieve year-to-year comparison;
- Closed discussions to candidly assess evaluations of LSC President & officers;
- Model governance for grantees; and
- Engage programs.

2012 OPERATIONS AND REGULATIONS COMMITTEE EVALUATIONS

Members very positive.

Members Liked:

- Civility and seriousness of purpose.

Ideas for Improvement Include:

- More balanced presentations on matters that LSC management is promoting; and
- Better way to mark up documents in discussion (technology solution).

Future:

- Now that we have a revised charter, need to adopt timeline to accomplish tasks and begin to tackle systematically; and
- Advance general regulatory review and move to fulfill operations mandate.

2012 INSTITUTIONAL DEVELOPMENT COMMITTEE EVALUATIONS

Members positive. One member concerned with lack of sufficient materials to review.

Members Liked:

- Goals;
- Recognition of need for development office and follow up on it;
- Entrepreneurial and creative attitude

Ideas for Improvement Include:

- Repeated discussion of same issues.
- Need to be better at identifying risks and minimizing impact; and
- Hire staff development officer.

Future:

- Implement development plan. Can't anticipate every contingency; need to accept risk of going forward and initiate development work; and
- Turn great ideas into action and flow of funds. Generate annual fundable proposal.

2012 PROMOTION AND PROVISIONS COMMITTEE EVALUATIONS

Members provided very mixed reviews, citing concerns that the Committee doesn't take action, that panels are too large with no time for discussion, minutes don't reflect action items, lack of progress on long-term strategic issues, and a lack of alignment between the committee's goals and actions taken.

Members Liked:

- Opportunity to meet people;
- Panels interesting and informative;
- Meeting with various members of LSC community; hear expertise;
- Panel presentations outstanding; and
- Effective as way for Board to learn about grantees.

Ideas for Improvement Include:

- Smaller panels; more time for deliberation;
- Need to identify specific issues to be studied and make recommendations;
- Need to do more than have panel presentations;
- More active role in making suggestions for future; and
- More input from committee members regarding the agenda.

Future:

- How to maximize representation in court and reduce spending on other activities;
- Focus on Pro Bono Task Force;
- Study feasibility of reactivating Reggie Fellowships; and
- Responsibility for implementing parts of Pro Bono Task Force report and Strategic Plan.

LSC BOARD OF DIRECTORS – 2012 EVALUATIONS

Priorities for Attention in 2013 include:

Strategic Plan

Ten (10) Board Members identified the Strategic Plan as a priority, including:

- Adopt priorities for action;
- Implementation to lead to performance metrics;
- Continue active participation and oversight; and
- Adopt schedule/timeline for accomplishing goals.

Pro Bono Task Force

Seven (7) Board Members identified implementation of the Pro Bono Task Force Report recommendations as a priority.

Funding

Six (6) Board Members identified the need to develop outside sources of funding as a priority, including:

- Hire Development Officer;
- Generate series of realistic proposals from private donors and foundations; and
- Assist grantees so they survive funding cuts.

Relationship with Congress

Four (4) Board Members identified improved relations with Congress as a priority.

Messaging

Three (3) Board Members identified increased attention to getting LSC's story out publicly as a priority.

Fiscal Oversight Task Force

Two (2) Board Members identified final implementation of the Fiscal Oversight Task Force recommendations as a priority.

Other Priorities

The following priorities were identified by one (1) Board member:

- Review whether Board committees are meeting responsibilities in charters.
- More focus of presentations on how to improve performance of grantees and follow through on best practices.
- Amendment of PAI Rules.
- Provide ongoing ways for stakeholders and partners to come together.
- Directly take on the business case justification for legal aid.
- Resolve CBA this year.
- Improve grantee compliance.
- Improve grantee efficiency.
- Improve fraud prevention.
- Eliminate political/activist grantee efforts and focus on core vision – in court representation of individual cases.
- Review performance and productivity of LSC employees (rather than grantees). We have focused on grantees; not nearly as much as on our own employees.
- Program quality.
- Engage the community, especially clients in discussion to determine what outcomes to be measured.
- Explore new ideas, e.g., self-help centers.
- Continue outreach to grantees.

GAO Recommendations updates

**GAO Recommendations from June 2010 Report
 “Improvements Needed in Controls over Grant Awards & Grantee Program Effectiveness”**

#	Grant Application Processing and Award	Date Documentation 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. 	<p>January 2013: GAO considers this recommendation closed. It will be updating its online report tracker to reflect the closure in the upcoming weeks.</p>
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> <ul style="list-style-type: none"> • 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 	<p>January 2013: GAO considers this recommendation closed. It will be updating its online report tracker to reflect the closure in the upcoming weeks.</p>

#	Grant Application Processing and Award	Date Documentation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
				<p>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. 	
3	<p>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.</p>	<p>Ongoing.</p>	<p>Documentation of the risk based internal control assessment of the process and any related risk remediation efforts.</p>	<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>	<p>January 2013: In September 2012, LSC engaged L&L Consulting, LLC, to perform a risk-based assessment of LSC's grantmaking processes. L&L completed its evaluation and submitted a report of its findings and recommendations to LSC management on Nov. 28, 2012. LSC has provided this report to the GAO. The GAO has indicated a willingness to close the recommendation upon its receipt and is expected to do so shortly.</p>
4	<p>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.</p>	<p>November 2010</p>	<p>Cost benefits assessment.</p> <p>Real time observation of the required fields, certs etc. in LSC Grants</p> <p>Evidence of the</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>	<p>January 2013: In a follow-up site visit, GAO reviewed LSC Grants and was satisfied with the enhanced application controls that LSC implemented. But before it would close-out the recommendation, GAO requested a memo from LSC documenting the changes that have been made and the cost-benefit of improving LSC Grants internally, rather than purchasing a new, external system. LSC provided the requested memo and expects to receive a decision on the</p>

#	Grant Application Processing and Award	Date Documentation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
			continuous internal evaluation by staff.		recommendation's closure in the upcoming weeks.
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 procedures for risk criteria used 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.	January 2013: GAO is still reviewing the OPP and OCE Manuals LSC submitted, but expects to complete its review in the upcoming weeks and issue a decision on this recommendation's closure.
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.	January 2013: GAO considers this recommendation closed. It will be updating its online report tracker to reflect the closure in the upcoming weeks.
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.	January 2013: GAO considers this recommendation closed. It will be updating its online report tracker to reflect the closure in the upcoming weeks.
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.	January 2013: GAO considers this recommendation closed. It will be updating its online report tracker to reflect the closure in the upcoming weeks.

#	Grant Application Processing and Award	Date Documentation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
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>January 2013: LSC is actively developing, in conjunction with its employee union, a comprehensive performance management system. A draft proposal is currently being evaluated by senior management.</p> <p>To assist in developing the new system, LSC issued a Job Analysis Questionnaire (JAQ) to all staff. Management is using the responses to update position descriptions and 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.	January 2013: 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.	January 2013: 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 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.

#	Grant Application Processing and Award	Date Documentation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
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.	January 2013: LSC is actively developing, in conjunction with its employee union, a comprehensive performance management system. A draft proposal, which provides for annual performance assessments of staff, is currently being evaluated by senior management.
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 (10/13/2011)
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.	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 (10/13/2011)

#	Grant Application Processing and Award	Date Documentation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
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 (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	<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>	<p>January 2013: GAO junior staff is satisfied with LSC's implementation of this recommendation, but its closure is pending approval from senior staff. GAO expects to render a final decision in the upcoming weeks.</p>

#	Grant Application Processing and Award	Date Documentation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
			grantee performance oversight.		
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.	January 2013: GAO considers this recommendation closed. It will be updating its online report tracker to reflect the closure in the upcoming weeks.

Total Number of Recommendations: 17

Total Number Closed: 9

Total Number in Process of Closure by GAO: 3

Total Number of Open Items: 5

VII. Audit Committee

AUDIT COMMITTEE

January 26, 2013

Agenda

OPEN SESSION

1. Approval of agenda
2. Approval of minutes of the Committee's meeting of September 30, 2012
3. Presentation of the Fiscal Year (FY) 2012 Annual Financial Audit
 - Ronald "Dutch" Merryman, Assistant Inspector General for Audits
 - Nancy Davis, WithumSmith+Brown
4. Review of LSC's Form 990 for FY 2012
5. Briefing by Office of Inspector General
 - Jeffrey Schanz, Inspector General
6. Discussion of Committee's evaluations for 2012 and the Committee's goals for 2013
7. Public comment
8. Consider and act on other business
9. Consider and act on adjournment of meeting

CLOSED SESSION

10. Communication by Corporate Auditor with those charged with governance under Statement on Auditing Standard 114
 - Jeffrey Schanz, Inspector General
 - Ronald “Dutch” Merryman, Assistant Inspector General for Audits
 - Nancy Davis, WithumSmith+Brown

**Draft Minutes of the Audit Committee's
Open Session meeting
of September 30, 2012**

Legal Services Corporation
Meeting of the Audit Committee
Open Session
Sunday, September 30, 2012

DRAFT MINUTES

Chairman Victor B. Maddox convened an open session meeting of the Legal Services Corporation's ("LSC") Audit Committee ("the Committee") at 4:20 p.m. on Sunday, September 30, 2012. The meeting was held at the Hilton Durham Hotel, 3800 Hillsborough Road, Durham, North Carolina 27705.

The following Committee members were present:

Victor B. Maddox, Chairman
Harry J.F. Korrell, III
David Hoffman (Non-Director Member) (by telephone)
Paul L. Snyder (Non-Director Member) (by telephone)
John G. Levi, *ex officio*

Other Board members present:

Laurie Mikva
Julie A. Reiskin

Also attending were:

James J. Sandman President
Rebecca Fertig Special Assistant to the President

Minutes: September 30, 2012: Open Session Meeting of the Audit Committee
Page 1 of 4

Victor M. Fortuno	Vice President for Legal Affairs, General Counsel and Corporate Secretary
Mark Freedman	Senior Assistant General Counsel, Office of Legal Affairs
Lynn Jennings	Vice President for Grants Management
David L. Richardson	Comptroller and Treasurer
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
David Maddox	Assistant Inspector General for Management and Evaluation, Office of the Inspector General
Ronald “Dutch” Merryman	Assistant Inspector General for Audit, Office of the Inspector General
Carol Bergman	Director, Office of Government Relations and Public Affairs (GRPA)
Carl Rauscher	Director of Media Relations, GRPA
Marcos Navarro	Design Director, GRPA
Janet LaBella	Director, Office of Program Performance
Allan Tanenbaum	Non-Director Member, LSC Finance Committee
Chuck Greenfield	National Legal Aid and Defender Association (NLADA)
Terry Brooks	American Bar Association

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

Chairman Maddox called the open session meeting of the Committee to order.

MOTION

Mr. Korrell moved to approve the agenda. Mr. Snyder seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Mr. Snyder moved to approve the minutes of the Committee's June 25, 2012 meeting, as amended. Mr. Korrell seconded the motion.

VOTE

The motion passed by voice vote.

Chairman Maddox led the discussion on the latest version of the revised Committee charter, which reflected comments from the Committee's June 25, 2012 meeting, as well as those from the Office of Inspector General. Committee members' questions were answered by Mr. Fortuno, Inspector General Schanz, and Mr. Merryman.

MOTION

Mr. Korrell moved to recommend to the Board the adoption of the Committee charter, as revised during the meeting. Mr. Snyder seconded the motion.

VOTE

The motion passed by voice vote.

Inspector General Schanz briefed the Committee on the peer review of the Securities Exchange Commission conducted by the OIG pursuant to the Inspector General Act. Following, Mr. Merryman briefed the Committee on the internal audit and the Quality Control Reviews (“QCR”) processes and answered Committee members’ questions

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

Mr. Snyder suggested that, pending adoption of the revised charter, the Committee align its agendas with the revised charter to ensure that the Committee is accomplishing its responsibilities throughout the year.

MOTION

Mr. Korrell moved to adjourn the meeting. Mr. Snyder seconded the motion.

VOTE

The motion passed by voice vote.

The open session meeting of the Committee adjourned at 6:11 p.m.

Annual Financial Audit Fiscal Year 2012



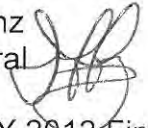

Office of Inspector General
Legal Services Corporation

Inspector General
Jeffrey E. Schanz

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Washington, DC 20007-3558
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MEMORANDUM

TO: Board of Directors
Legal Services Corporation

FROM: Jeffrey E. Schanz
Inspector General  

SUBJECT: Transmittal of FY 2012 Financial Statement Audit Report

DATE: January 3, 2013

The Office of Inspector General (OIG) contracted with the independent certified public accounting firm of WithumSmith+Brown, PC (WS+B) to audit the financial statements of the Legal Services Corporation (LSC) as of September 30, 2012. The audit was required to be conducted in accordance with auditing standards generally accepted in the United States of America, as well as the standards applicable to financial audits contained in the *Government Auditing Standards*, issued by the Comptroller General of the United States.

The Independent Auditors' Report on LSC's Financial Statements and Report On Internal Control over Financial Reporting and On Compliance and Other Matters by WS+B were dated December 26, 2012. The OIG received the final reports from the Independent Auditor on January 2, 2013.

The Independent Auditors' Report by WS+B stated that LSC's financial statements present fairly, in all material respects, the financial position of LSC as of September 30, 2012, and the changes in its net assets and its cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States.

WS+B's Report On Internal Control over Financial Reporting and On Compliance and Other Matters identified no material weaknesses in internal control and no reportable noncompliance with laws and regulations.

OIG reviewed the audit reports from WS+B and related audit documentation and inquired of their representatives. OIG's review disclosed no instances in which WS+B

did not comply, in all material respects, with U.S. generally accepted government auditing standards. Our review, as differentiated from an audit in accordance with generally accepted government auditing standards, was not intended to enable us to express, and we do not express, opinions on LSC's financial statements, conclusions about compliance with applicable laws and regulations, or the effectiveness of internal controls. WS+B is responsible for the attached audit reports, dated December 26, 2012, along with the conclusions expressed in the reports.

As part of the audit report, the OIG is transmitting a management letter prepared by the Independent Auditor that addresses a weakness in the controls surrounding the bank reconciliation process and with the voiding of checks. The management letter included five recommendations to address this weakness which LSC management agreed to implement.

Attachment

cc: Jim Sandman
President



**WithumSmith+Brown
A Professional Corporation
Certified Public Accountants and Consultants**

**Legal Services Corporation
Financial Statements
September 30, 2012 and 2011
With Independent Auditors' Report**

Legal Services Corporation
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September 30, 2012 and 2011

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Additional Offices in New Jersey
New York and Pennsylvania

Independent Auditors' Report

To Inspector General and Board of Directors,
Legal Services Corporation:

We have audited the accompanying statements of financial position of Legal Services Corporation ("LSC") as of September 30, 2012 and 2011, and the related statements of activities and change in net assets, and cash flows for the years then ended. These financial statements are the responsibility of the Organization's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of LSC as of September 30, 2012 and 2011, and the changes in its net assets and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated December 26, 2012, on our consideration of LSC's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.



Our audit was conducted for the purpose of forming an opinion on the basic financial statements as a whole. The accompanying Management's Discussion and Analysis is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information has not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we do not express an opinion or provide any assurance on it.

Withers Smith + Brown, PC

Silver Spring, Maryland
December 26, 2012

Basic Financial Statements

Legal Services Corporation
Statements of Financial Position
September 30, 2012 and 2011

	2012	2011
Assets		
Current Assets		
Cash and cash equivalents	\$ 73,577,157	\$ 80,128,158
Accounts receivable, net	29,073	16,473
Prepaid expenses and deposits	228,840	174,875
Total current assets	<u>73,835,070</u>	<u>80,319,506</u>
Property and equipment, net	<u>637,802</u>	<u>754,240</u>
	<u>\$ 74,472,872</u>	<u>\$ 81,073,746</u>
Liabilities and Net Assets		
Current Liabilities		
Grants and contracts payable	\$ 60,201,520	\$ 64,187,855
Accounts payable	600,877	968,328
Accrued vacation and other liabilities	1,098,335	1,225,290
Deferred revenue	3,630,389	6,674,663
Total current liabilities	<u>65,531,121</u>	<u>73,056,136</u>
Net assets		
Unrestricted		
Undesignated	7,326,689	6,395,222
Board designated	690,069	855,648
Net investment in fixed assets	637,802	754,240
Total unrestricted	<u>8,654,560</u>	<u>8,005,110</u>
Temporarily restricted	<u>287,191</u>	<u>12,500</u>
Total net assets	<u>8,941,751</u>	<u>8,017,610</u>
	<u>\$ 74,472,872</u>	<u>\$ 81,073,746</u>

The Notes to Financial Statements are an integral part of these statements.

Legal Services Corporation
Statement of Activities and Change in Net Assets
Year Ended September 30, 2012

	Unrestricted	Temporarily Restricted	Total
Support and Revenues			
Federal appropriations	\$ 348,000,000	\$ -	\$ 348,000,000
Grant revenue	2,726,363	293,000	3,019,363
Other income	11,569	-	11,569
Change in deferred revenue	3,044,274	-	3,044,274
Net assets released from restriction	18,309	(18,309)	-
Total Revenue	353,800,515	274,691	354,075,206
Expenses			
Program services			
Grants and contracts	332,178,276	-	332,178,276
Herbert S. Garten Loan Repayment Assistance Program	575,462	-	575,462
Supporting services			
Management and grants oversight	16,025,687	-	16,025,687
Office of Inspector General	4,371,640	-	4,371,640
Total Expenses	353,151,065	-	353,151,065
Change in net assets	649,450	274,691	924,141
Net assets, beginning of year	8,005,110	12,500	8,017,610
Net assets, end of year	\$ 8,654,560	\$ 287,191	\$ 8,941,751

The Notes to Financial Statements are an integral part of these statements.

Legal Services Corporation
Statement of Activities and Change in Net Assets
Year Ended September 30, 2011

	Unrestricted	Temporarily Restricted	Total
Support and Revenues			
Federal appropriations	\$ 404,190,000	\$ -	\$ 404,190,000
Grant revenue	2,315,360	-	2,315,360
Interest	1,561	-	1,561
Other income	12,019	12,500	24,519
Donated services	67,145	-	67,145
Change in deferred revenue	(718,856)	-	(718,856)
Total Revenue	405,867,229	12,500	405,879,729
Expenses			
Program services			
Grants and contracts	383,027,214	-	383,027,214
Herbert S. Garden Loan Repayment Assistance Program	1,517,646	-	1,517,646
Supporting services			
Management and grants oversight	16,907,199	-	16,907,199
Office of Inspector General	4,038,712	-	4,038,712
Total Expenses	405,490,771	-	405,490,771
Change in net assets	376,458	12,500	388,958
Net assets, beginning of year	7,628,652	-	7,628,652
Net assets, end of year	\$ 8,005,110	\$ 12,500	\$ 8,017,610

The Notes to Financial Statements are an integral part of these statements.

Legal Services Corporation
Statements of Cash Flows
Years Ended September 30, 2012 and 2011

	2012	2011
Cash flows from operating activities		
Change in net assets	\$ 924,141	\$ 388,958
Adjustments to reconcile changes in net assets to net cash provided by operating activities:		
Depreciation and amortization	315,820	225,917
Loss on disposal of assets	-	268
Changes in assets and liabilities:		
Accounts receivable	(12,600)	303
Prepaid expenses and deposits	(53,965)	205,669
Grants and contracts payable	(3,986,334)	(5,243,455)
Accounts payable	(367,451)	610,019
Accrued vacation and other liabilities	(126,955)	213,641
Deferred revenue	(3,044,274)	718,856
Net cash used by operations	<u>(6,351,618)</u>	<u>(2,879,824)</u>
Cash flows from investing activities		
Purchase of property and equipment	<u>(199,383)</u>	<u>(588,429)</u>
Net cash used by investing activities	<u>(199,383)</u>	<u>(588,429)</u>
Net decrease in cash and cash equivalents	(6,551,001)	(3,468,253)
Cash and cash equivalents		
Beginning of year	<u>80,128,158</u>	<u>83,596,411</u>
End of year	<u>\$ 73,577,157</u>	<u>\$ 80,128,158</u>
Supplemental information		
Income taxes paid	\$ -0-	\$ -0-
Interest paid	\$ -0-	\$ -0-

The Notes to Financial Statements are an integral part of these statements.

Legal Services Corporation
Notes to the Financial Statements
September 30, 2012 and 2011

1. Organization and Purpose

Legal Services Corporation (“LSC”) is a private non-membership District of Columbia nonprofit corporation, established by Congress in the Legal Services Corporation Act of 1974, Public Law 93-355, and amended in 1977 by Public Law 95-222. The purpose of LSC is to provide financial support to independent organizations that directly provide legal assistance in non-criminal proceedings or matters to persons financially unable to afford such counsel.

2. Summary of Significant Accounting Policies

Basis of Accounting

LSC’s financial statements are prepared on the accrual basis of accounting. Accordingly, revenue is recognized when earned, and expenses are recorded when incurred in accordance with accounting principles generally accepted in the United States of America.

The federal appropriations include amounts received and expended in furtherance of LSC’s objectives.

Basis of Presentation

LSC follows accounting standards established by the Financial Accounting Standards Board (FASB) which is the source of generally accepted accounting principles (GAAP) for not-for-profit entities. The financial statement presentation follows the recommendations of the FASB Accounting Standards Codification (ASC) 958, Not-for-Profit Entities. Under FASB ASC 958, LSC is required to report information regarding its financial position and activities according to three classes of net assets: unrestricted, temporarily restricted, and permanently restricted.

LSC has recorded transactions in the following net asset categories:

Unrestricted net assets – net assets that are not subject to donor imposed restrictions.

Temporarily restricted net assets – Net assets subject to donor imposed restrictions that will be met by the passage of time or which will be fulfilled by the actions of LSC.

Cash and Cash Equivalents

LSC’s cash and cash equivalents includes a fund balance with U.S. Treasury of \$39,548,455 and \$44,411,646 as of September 30, 2012 and 2011, respectively.

Accounts Receivable

Accounts receivable are net of an allowance of \$593,848 and \$1,113,777 as of September 30, 2012 and 2011, respectively, determined based on historical experience and an analysis of specific amounts.

Property and Equipment

Capital assets are stated at cost and depreciated using the straight-line method over the estimated useful lives of the assets of five to ten years. Depreciation is reported as an unallocated expense and is not directly identified with individual functions.

Revenues

Federal appropriations are reported as support and revenue in the period the public law makes them available. The appropriation remains available until expended. Unexpended appropriated funds are shown as deferred revenue and adjustments are made to the account Change in Deferred Revenue to recognize the annual adjustment.

Grants and Contracts to Recipients

Liabilities, expenses and revenues related to grant and contract awards are recognized when the awarding document is fully executed. Grant awards are made to recipients on a calendar year basis from appropriations received by LSC.

Legal Services Corporation
Notes to the Financial Statements
September 30, 2012 and 2011

Grant Recoveries

Grantees who have not complied with the requirements of the Legal Services Corporation Act of 1974 and implementing regulations may be subject to actions that result in a recovery of grant funds. Sources of grant refunds may include recoveries of disallowed costs, excess fund balances, unexpended funds on Private Attorney Involvement programs and sanctions imposed by LSC for failure to comply with other regulatory requirements, as well as other types of recoveries. Grant recoveries are reported as a reduction of grant and contract expenses on the accompanying statements of activities.

Net Assets

Net assets related to federal appropriations have been reported as either designated or undesignated. Designated net assets represent amounts that have been earmarked by the Board of Directors for continuing programs and administrative activities. Undesignated net assets represent appropriated federal carryover and other operating excess, which are available for future use at the discretion of the Board of Directors. Net assets invested in fixed assets represent investments in property, equipment and computer software, net of accumulated depreciation and amortization.

The Board of Directors, through its fund allocation process, has designated \$690,069 and \$855,648 of the fund balance for continuing programs and administrative activities as of September 30, 2012 and 2011, respectively. Net assets are reported as restricted due to donor stipulations that limit the use of the donated asset.

Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results may differ from those estimates.

Income Taxes

LSC is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code and the applicable income tax regulations of the District of Columbia, except for unrelated business income. No provision for income taxes was required for the year ended September 30, 2012 and 2011, as LSC had no net unrelated business income.

LSC evaluates its uncertain tax positions using the provisions of FASB ASC 450, Accounting for Contingencies. Accordingly, a loss contingency is recognized when it is probable that a liability has been incurred as of the date of the financial statements and the amount of the loss can be reasonably estimated. The amount recognized is subject to estimates and management judgment with respect to the likely outcome of each uncertain tax position. The amount that is ultimately sustained for an individual uncertain tax position or for all uncertain tax positions in the aggregate could differ from the amount recognized. There were no liabilities for uncertain tax positions as of September 30, 2012 and 2011. There was also no tax-related to interest and penalties reported in the financial statements.

LSC's Forms 990, Return of Organization Exempt from Income Tax, for the years ending September 30, 2009, 2010 and 2011 are subject to examination by the IRS, generally for 3 years after they were filed.

Concentration of Revenue

LSC receives substantially all of its revenue from direct federal government appropriations. Should there be a significant reduction in this revenue, LSC's programs and activities could be negatively affected.

3. Concentration of Credit Risk – Deposits

At September 30, 2012 and 2011, LSC funds are in non-interest bearing accounts. LSC's cash accounts are subject to Federal Deposit Insurance Corporation (FDIC) limits. Non-interest bearing accounts are fully insured by the FDIC through December 31, 2012. As of January 1, 2013, FDIC insurance coverage will be limited to \$250,000 per institution. Management is currently evaluating options for maintaining acceptable levels of risk.

Legal Services Corporation
Notes to the Financial Statements
September 30, 2012 and 2011

4. Equipment

Property and equipment consists of the following at September 30, 2012:

	<u>Beginning Balance</u>	<u>Additions</u>	<u>Disposals</u>	<u>Ending Balance</u>
Furniture and equipment	\$ 2,309,951	\$ 100,216	\$ (76,340)	\$ 2,333,827
Software	467,022	99,166	-	566,188
Leasehold improvements	455,647	-	-	455,647
Subtotal	<u>3,232,620</u>	<u>199,382</u>	<u>(76,340)</u>	<u>3,355,662</u>
Less: Accumulated depreciation /amortization	<u>(2,478,380)</u>	<u>(315,820)</u>	<u>76,340</u>	<u>(2,717,860)</u>
Capital assets (net)	<u>\$ 754,240</u>	<u>\$ (116,438)</u>	<u>\$ -</u>	<u>\$ 637,802</u>

Property and equipment consists of the following at September 30, 2011:

	<u>Beginning Balance</u>	<u>Additions</u>	<u>Disposals</u>	<u>Ending Balance</u>
Furniture and equipment	\$ 1,939,453	\$ 423,506	\$ (53,008)	\$ 2,309,951
Software	406,050	60,973	-	467,023
Leasehold improvements	351,698	103,949	-	455,647
Subtotal	<u>2,697,201</u>	<u>588,428</u>	<u>(53,008)</u>	<u>3,232,621</u>
Less: Accumulated depreciation /amortization	<u>(2,305,205)</u>	<u>(225,917)</u>	<u>52,741</u>	<u>(2,478,381)</u>
Capital assets (net)	<u>\$ 391,996</u>	<u>\$ 362,511</u>	<u>\$ (267)</u>	<u>\$ 754,240</u>

Depreciation/amortization expense for the years ended September 30, 2012 and 2011 was \$315,820 and \$225,917, respectively.

5. Grant Revenue

LSC was awarded grants from the U.S. Court of Veterans Appeals for the purpose of furnishing legal assistance to veterans. Grant revenues for the year ended September 30, 2012 and 2011, total \$2,726,363 and \$2,315,360, respectively.

The Public Welfare Foundation (PWF) has awarded LSC two grants totaling \$293,000: a planning grant (grant # 12-014) and a resulting research grant (grant # 12-131). An overview of both grants appears below.

Planning Grant (grant # 12-014): On November 18, 2011, PWF informed LSC of the award of a planning grant in the amount of \$17,000. The grant period initially was scheduled to run for two months, from December 1, 2011 through January 31, 2012. The grant was designated to conduct preliminary planning in preparation for the design and implementation of a new outcomes measurement and reporting system for LSC and its grantees. PWF made full payment of the planning grant funds to LSC on January 17, 2012. LSC currently has \$11,191 in unexpended funds from the planning grant, and PWF granted a no-cost extension to LSC until December 31, 2012.

Research Grant (grant # 12-131): On June 18, 2012, PWF informed LSC of the award of a grant in the amount of \$276,000. The grant period is scheduled to run for eighteen months, from July 1, 2012 through

Legal Services Corporation
Notes to the Financial Statements
September 30, 2012 and 2011

December 31, 2013. The grant is designated to support work by LSC in furtherance of two goals: (1) to improve LSC's data collection system to strengthen its assessment efforts and secure information to advance its goal of equal access to justice for the poor; and (2) to provide data analysis tools to help LSC's grantees manage their operations and increase financial support for their work. PWF made full payment of the grant funds to LSC on July 16, 2012.

6. Grants and Contracts Expense

Grants and contracts expense for the years ended September 30, 2012 and 2011 consists of the following:

	<u>2012</u>	<u>2011</u>
Basic Field Programs	\$ 323,232,739	\$ 377,892,573
U.S. Court of Veterans Appeals	2,721,170	2,311,575
Grant From Other Funds	253,346	111,409
Technology Initiatives	6,045,050	2,903,326
Grant Recoveries	<u>(74,029)</u>	<u>(191,669)</u>
Total	<u>\$ 332,178,276</u>	<u>\$ 383,027,214</u>

7. Management and Grants Oversight

Management and grants oversight expenses for the years ended September 30, 2012 and 2011 consists of the following:

	<u>2012</u>	<u>2011</u>
Compensation and benefits	\$ 11,461,883	\$ 12,157,984
Temporary employee pay	434,164	507,879
Consulting	540,767	618,469
Travel and transportation	717,372	800,518
Communications	86,509	106,815
Occupancy cost	1,711,870	1,730,590
Printing and reproduction	61,182	62,706
Other operating expenses	696,122	696,319
Capital expenditures	<u>63,459</u>	<u>515,182</u>
Total	15,773,328	17,196,462
Depreciation and amortization	315,819	225,917
Loss on disposal of assets	-	268
Less: capitalized assets	<u>(63,460)</u>	<u>(515,448)</u>
	<u>\$ 16,025,687</u>	<u>\$ 16,907,199</u>

Legal Services Corporation
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8. Office of Inspector General

LSC's Office of Inspector General expenses for the years ended September 30, 2012 and 2011 were as follows:

	<u>2012</u>	<u>2011</u>
Compensation and benefits	\$ 3,743,718	\$ 3,579,686
Temporary employee pay	22,647	8,408
Consulting	312,569	167,188
Travel and transportation	206,430	199,678
Communications	17,792	17,331
Occupancy cost	-	1,482
Printing and reproduction	8,170	8,271
Other operating expenses	60,313	56,668
Capital expenditures	<u>135,922</u>	<u>73,246</u>
Total	4,507,561	4,111,958
Less: capitalized assets	<u>(135,921)</u>	<u>(73,246)</u>
	<u>\$ 4,371,640</u>	<u>\$ 4,038,712</u>

9. Retirement Plans

Pursuant to the Legal Services Corporation Act, all officers and employees hired before October 1, 1988, are participants in the Civil Service Retirement System ("CSRS"), although they are neither officers nor employees of the federal government. The CSRS plan is administered by the United States Office of Personnel Management ("OPM"). LSC makes contributions at rates applicable to agencies of the federal government. The contributions do not equal the full service cost of the pension expense, which is the actuarial present value of benefits attributed to services rendered by covered employees during the accounting period. The measurement of service cost requires the use of actuarial cost methods to determine the percentage of the employees' basic compensation sufficient to fund their projected pension benefit. These percentages (cost factors) are provided by OPM.

The excess of total pension expense over the amount contributed by LSC and by LSC employees represents the amount which must be financed directly by OPM. Several employees participate in the federal Employees Health Benefits plan ("FEHB"), also administered by the OPM. LSC pays the cost of current employees.

Post-retirement benefits are paid for by the OPM. No amounts have been recognized in the financial statements for these imputed costs as they are not deemed material. LSC does not report in its financial statements CSRS or FEHB assets, accumulated plan benefits or unfunded liabilities, if any, applicable to its employees.

Eligible employees may contribute up to 5% of their pretax earnings to the federal Thrift Savings Plan. Also, all officers and employees hired after September 30, 1988 are ineligible for the Civil Service Retirement System, but are eligible to participate in LSC's pension and thrift plan, which is a tax deferred annuity plan subject to Section 403(b) of the Internal Revenue Code. Individuals can make contributions up to the maximum permitted by law. LSC matches the first 2.51% contributed by the employee. In addition, LSC contributes 6% of each eligible employee's salary regardless of their participation to the maximum permitted under federal income tax rules.

Legal Services Corporation
Notes to the Financial Statements
September 30, 2012 and 2011

LSC's contributions to these plans for the years ended September 30, 2012 and 2011 were \$999,611 and \$994,311, respectively. The amounts are included in compensation and benefits for management and administration expenses.

10. Operating Lease

On June 1, 2003, LSC commenced an operating lease agreement for office space which provides for a non-escalating annual base rent for a 10-year term. A new lease agreement was entered into September 2012, commencing in June 2013, for an additional 10 years. LSC has no obligation to pay a portion of building operating expenses. LSC has the right to terminate the lease by giving no less than 120-day prior written notice in the event that LSC does not receive an appropriation from Congress for administrative costs sufficient to cover LSC and its rental obligations for any period during the term of the lease. Future minimum lease payments required under this leases as of September 30, 2012 are as follows:

<u>Fiscal Year</u>	<u>Amount</u>
2013	\$ 1,710,000
2014	1,710,000
2015	1,710,000
2016	1,710,000
2017	1,710,000
Thereafter	9,690,000
	<u>\$ 18,240,000</u>

Rental expense for the years ended September 30, 2012 and 2011 is \$1,710,000.

11. Contingencies

Grants and Contracts

LSC receives its funding from appropriations by Congress and grants from the U.S. Court of Veterans Appeals and, accordingly, may be subject to federal audits. In addition, LSC provides significant funding to numerous independent organizations, which are subject to their own independent audits and audits by LSC.

LSC's management does not expect any significant adjustments as a result of federal audits, should they occur, or from the audits of the grantees' independent auditors.

Claims

LSC is defending what started as two separate cases but have been consolidated into one case involving challenges to LSC regulations. Plaintiffs are seeking injunctive relief but no monetary damages, except for attorneys' fees but LSC's legal fees in these cases were being paid by its insurance carriers. Insurance is no longer available to cover legal fees in this consolidated matter and must be paid directly by LSC out of normal operating funds, without reimbursement by insurance carriers. However, the matter has been dormant since 2009 and no renewed activity is anticipated. No funds have been recorded in the financial statements for any contingent liability associated with future legal fees.

In August of 2011, a civil lawsuit, Wojdak v LSC, U.S. Department of Labor, U.S. Department of the Treasury, was filed against LSC but never served. Although the lawsuit names LSC as a co-defendant, no specific claims were made against LSC. No funds have been recorded in the financial statements for any contingent liability associated with this matter.

Legal Services Corporation
Notes to the Financial Statements
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Since June of 2011, several employees of LSC have filed wage discrimination complaints with the Equal Employment Opportunity Commission (EEOC). As they were only recently filed, all but one remain pending before the EEOC. Outside counsel for the Corporation has assessed the pending claims and advised that none is meritorious. Given that, in the opinion of counsel, none of these matters poses a reasonable possibility of an unfavorable outcome, no funds have been recorded in the financial statements for any contingent liability associated with these matters.

Reclassification of employees from exempt to non-exempt

No one made a claim against LSC alleging misclassification or failure to pay overtime, but LSC reclassified certain individuals from exempt to nonexempt and retroactively paid wages for hours worked in excess of 37.5 hours per week. Sufficient funds were available to make these payments without affecting current operations. Total amount paid during year ended September 30, 2012 and 2011 were \$0 and \$9,448, respectively and the amount due at September 30, 2012 and 2011 is \$25,782.

Collection Matters

In 2010, upon concluding that an LSC grantee had misused LSC funds and committed other financial irregularities, LSC disallowed approximately \$716,261 of the grantee's costs. On appeal, LSC agreed to reduce that amount to \$467,619. In 2011, the grantee was completely defunded. The Corporation is now exploring its options on how to recover the previously disallowed amount of \$467,619. No amounts have been recorded.

12. Loan Repayment Assistance Program

Through the Herbert S. Garten Loan Repayment Assistance Program (LRAP), established in 2005 and funded by Congressional appropriations, LSC makes a limited number of forgivable loans to attorneys employed by its grantee programs to help repay law school debt. Each participant receives up to \$5,600 per year for three years – for a maximum of \$16,800 if they remain eligible and funding remains available.

Participants must commit to remain with the LSC-funded legal services program for three years. As long as the participant remains in good standing, the loans are forgiven. Participants that do not successfully complete employment within the loan terms must repay the loans. No provision has been made in the accompanying financial statements to reflect any interest on the loans as management has deemed these amounts to be immaterial.

Accounts receivable are stated at the amount management expects to collect from refunded loans. Management provides for probable forgiven amounts through an adjustment to a valuation allowance based on its assessment of the current status of individual accounts. Accounts receivable balances are written-off through a charge to the valuation allowance in the year the loans are forgiven. Deferred revenue is comprised of funding available for future loans and loan amounts outstanding.

	<u>2012</u>	<u>2011</u>
LRAP balances at September 30, 2012 and 2011 are as follows:		
Cash	\$ 1,606,088	\$ 1,176,638
Accounts receivable, net	\$ 4,952	\$ 7,535
Deferred revenue	\$ 1,611,040	\$ 1,184,223

LRAP activity for the years ended September 30, 2012 and 2011 are as follows:

Loans made	\$ 573,308	\$ 1,518,607
Loans forgiven	\$ 1,095,391	\$ 866,953
Allowance for loan forgiveness	\$ (519,929)	\$ 650,693

Legal Services Corporation
Notes to the Financial Statements
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13. Temporarily Restricted Net Asset

In 2012, LSC received a donation totaling \$293,000 from the Public Welfare Foundation for the development and implementation of improvements to LSC's system for data collection and analysis, develop data collection tool kit for grantees to use and provide training and technical assistance for its use. The balance of the donation at September 30, 2012 was \$287,191.

In 2011, LSC received donations totaling \$12,500 which are restricted for the American Bar Foundation *Access Across America* research project. These funds were expended in 2012.

14. Subsequent Events

Legal Services Corporation has evaluated subsequent events occurring after the statements of financial position date through the date of December 28, 2012 the date the financial statements were available for release.

Fiscal Year 2013 Funding

Congress passed a Continuing Resolution (CR) in September 2012 as a six-month stopgap spending measure for FY 2013. The CR prevents a government shutdown on October 1 and funds federal programs until March 27, 2013 (H.J Res 117), since Congress did not pass the appropriations bills for Fiscal Year 2013. The CR provides funding at the \$1.047 trillion cap set for discretionary spending in the Budget Control Act of August 2011 (P.L. 112-250). This is \$8 billion more than the current FY 2012 levels. The increased spending is divided across the board for nearly all federal agencies at .612 percent.

LSC's total funding under the CR for FY 2013 is \$350,129,760, an increase of \$2,129,760 from FY 2012, on an annualized basis. This increase would be applied evenly across LSC's budget line items; basic funding would increase by \$1,973,088 on an annualized basis.



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**Report On Internal Control over Financial Reporting and On Compliance and Other Matters
Based on an Audit of Financial Statements Performed in Accordance With
Government Auditing Standards**

To the Inspector General and Board of Directors,
Legal Services Corporation:

We have audited the financial statements of the Legal Services Corporation as of and for the year ended September 30, 2012 and have issued our report thereon dated December 26, 2012. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

Management of Legal Services Corporation is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered LSC's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of LSC's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of LSC's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.



Compliance and Other Matters

As part of obtaining reasonable assurance about whether LSC's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such opinion. The results of our tests disclosed no instance of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted a certain matter that we reported to management of LSC in a separate letter dated December 26, 2012.

This report is intended solely for the information and use of management, the Inspector General, Board of Directors, others within the organization, and Congress and is not intended to be and should not be used by anyone other than these specified parties.

A handwritten signature in blue ink that reads "WithumSmith+Brown, PC".

Silver Spring, Maryland
December 26, 2012

Appendix

Legal Services Corporation Management's Discussion and Analysis September 30, 2012 and 2011

Mission

The Legal Services Corporation's mission is to ensure the provision of high-quality civil legal assistance to low-income persons and to promote equal access to justice in our nation.

Organization

Congress enacted legislation establishing the Legal Services Corporation (LSC) as a private nonprofit organization in 1974. LSC is governed by an 11-member Board of Directors appointed by the President of the United States and confirmed by the U.S. Senate.

LSC is the single largest source of funding for civil legal assistance for low-income individuals and families in the United States. LSC currently provides grants to 134 legal services programs, which operate as independent nonprofit organizations with their own boards of directors. Substantially all of the Corporation's funding comes from the Congress, and almost 94 percent of the annual congressional appropriation is distributed to these programs through a competitive grants process. LSC provides oversight, guidance and training to ensure the programs provide high-quality legal services and comply with congressional restrictions, LSC rules and regulations, and grant conditions.

The Corporation's two largest offices provide oversight of LSC grantees:

- The Office of Program Performance (OPP) administers the grant-making process, and provides oversight and guidance to ensure that LSC-funded programs provide high-quality legal services that are responsive to the needs of clients.
- The Office of Compliance and Enforcement (OCE) reviews grantee compliance with the LSC Act, with congressional restrictions on the use of LSC funds, and with LSC regulations and instructions.

LSC is currently implementing the recommendations of the Fiscal Oversight Task Force report issued in 2011 that was adopted by LSC's Board of Directors in January 2012. The report is available at <http://www.lsc.gov/media/press-releases/lsc-solicits-public-comment-report-fiscal-oversight-task-force>.

In furtherance of the Task Force's recommendations, LSC has hired a Vice President for Grants Management to oversee the Corporation's day-to-day programmatic operations, competitive grants process, and assessment and oversight of grantees, and to lead the consolidation of three of LSC's offices (OPP, OCE and the Office of Information Management) as recommended by the Task Force Report.

Other Corporation offices include the Office of Finance and Administration, Office of Legal Affairs, Office of Information Technology and the Office of Government Relations and Public Affairs.

In addition to these offices, LSC has an independent Office of Inspector General (OIG), established by statute to conduct and supervise audits, investigations, and reviews to detect and prevent fraud and abuse, and to promote economy, efficiency, and effectiveness in LSC's programs and operations. The OIG provides LSC and the Congress with independent and objective assessments of programs and activities; reports on problems and deficiencies; the need for and progress of corrective actions and reviews and makes recommendations with respect to laws and regulations affecting LSC. The OIG is also responsible for oversight of the annual audits of LSC and its grantees, performed by independent public accountants (IPAs), as well as for monitoring grantee compliance with LSC regulations via the IPA audit process and through its own reviews. The OIG is a separate line item in LSC's annual appropriation acts.

Access to Justice and Delivery of Civil Legal Assistance

Equal access to justice is a core principle of American democracy. LSC has become the bedrock on which our national system of access to civil justice for low-income Americans stands. The system is also supported

Legal Services Corporation Management's Discussion and Analysis September 30, 2012 and 2011

by state and local appropriations, Interest on Lawyers' Trust Accounts (IOLTA) funds, court filing-fee surcharges, foundation support, and private contributions.

LSC currently awards and oversees grants to 134 independent, nonprofit legal aid programs in every state, the District of Columbia, and U.S. territories. Persons eligible for LSC-funded services are generally at or below 125 percent of the federal poverty line; in 2012 that was an income of \$28,813 for a family of four, and \$13,963 for a single person.

Nearly 61 million Americans are eligible for LSC-funded services, according to the most recent U.S. Census Bureau count for the year 2011. That is nearly one in five Americans, and an increase of 4.1 million people from 2009.

In 2011, the year for which the most recent data are available, matters involving family law represented 34.4 percent of cases closed by LSC-funded programs. The next largest category involved housing law, at 26 percent of cases closed. Other major case categories were income maintenance (12.7 percent) and consumer issues (11.7 percent). LSC-funded programs closed a total of 899,817 cases in 2011. These cases involved households with about 2.3 million people.

LSC programs are unable to meet the legal needs of all low-income Americans seeking civil legal assistance. Data collected from LSC-funded programs in 2005 and 2009 showed that for every client served by a program, one eligible person who actually sought help was turned away because of insufficient resources.

Despite inadequate resources, LSC programs are resilient and innovative. Between 2008 and 2010, the number of cases closed through the involvement of private attorneys increased by 15.5 percent. Due to funding cuts from Congress for FY 2011, however, cases closed by private attorney involvement dropped by nearly 5,000 cases or 5 percent from the previous year. LSC-funded programs continue to reach more citizens through websites, and increasing numbers of legal forms and other information are being downloaded every year. In 2011, more than 1 million self-help forms and printed materials were downloaded.

Overview of Financial Statements

The annual financial report presents LSC's financial position and results on operations in three parts: 1) Management's Discussion and Analysis (this section), 2) comparative financial statements, and 3) notes to the financial statements.

Management's Discussion and Analysis provides an overview of LSC's financial position and results of operations for fiscal years 2012 and 2011 and an overview of the fiscal year 2012 operating budget experience.

Financial Highlights

On November 17, 2011, the Congress appropriated \$348 million to LSC for Fiscal Year 2012, a reduction of approximately \$56 million from FY 2011. The funding reduction was taken from basic field grants, a cut of 14.8 percent. The FY 2012 cut was the second year in a row that LSC's funding was reduced. LSC's appropriation rose to \$420 million in FY 2010 and dropped to \$404.2 million in FY 2011; the entire reduction was in basic field grants. The last time LSC was funded at \$348 million was in 2007.

Congress passed a Continuing Resolution (CR) in September 2012 as a six-month stopgap spending measure for FY 2013. The CR funds federal programs until March 27, 2013 (H.J. Res 117). LSC's total funding under the CR for FY 2013 is \$350,129,760, an increase of \$2,129,760 from FY 2012, on an annualized basis. This increase would be applied evenly across LSC's budget line items; basic field funding would increase by \$1,973,088 on an annualized basis.

**Legal Services Corporation
Management's Discussion and Analysis
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LSC's funding and financial status are dependent on action by Congress, and, as the experience of the last three years demonstrates, can fluctuate materially. Any funds not expended in one fiscal year are carried over into the following fiscal year.

**Legal Services Corporation
Management's Discussion and Analysis
September 30, 2012 and 2011**

The following tables show the critical elements of the budgets and their breakdowns for fiscal years 2012 and 2011:

Table 1--For the year ended September 30, 2012

	(1) FY 2012 Appropriations	(2) FY 2012 Funding Reduction & Recission	(3) FY 2011 Carryover	(4) Court of Vets Appeals & Adjustments	(5) FY 2012 Consolidated Operating Budget
I. Delivery of legal assistance					
1. Basic Field Programs	\$ 322,400,000	\$ -	\$ 1,666,604	\$ -	\$ 324,066,604
2. US Court of Veterans Appeals Funds	-	-	3,807	2,726,363	2,730,170
3. Grants From Other Funds	-	-	725,077	-	725,077
4. Technology Initiatives	3,400,000	-	3,826,487	-	7,226,487
Delivery of legal assistance total	<u>325,800,000</u>	<u>-</u>	<u>6,221,975</u>	<u>2,726,363</u>	<u>334,748,338</u>
II. Management & grant oversight	17,000,000	-	4,302,956	293,000	21,595,956
III. Herbert S. Garten loan repayment assistance program	1,000,000	-	1,181,550	-	2,181,550
IV. Inspector General	4,200,000	-	2,231,553	-	6,431,553
Total Budget	<u>\$ 348,000,000</u>	<u>\$ -</u>	<u>\$ 13,938,034</u>	<u>\$ 3,019,363</u>	<u>\$ 364,957,397</u>

**Legal Services Corporation
Management's Discussion and Analysis
September 30, 2012 and 2011**

Table 1--For the year ended September 30, 2011

	(1) FY 2011 Appropriations	(2) FY 2011 Funding Reduction & Recission	(3) FY 2010 Carryover	(4) Court of Vets Appeals & Adjustments	(5) FY 2011 Consolidated Operating Budget
I. Delivery of legal assistance					
1. Basic Field Programs	\$ 394,400,000	\$ (15,758,800)	\$ 917,976	\$ -	\$ 379,559,176
2. US Court of Veterans Appeals Funds	-	-	22	2,315,360	2,315,382
3. Grants From Other Funds	-	-	644,817	-	644,817
4. Technology Initiatives	3,400,000	(6,800)	3,336,613	-	6,729,813
Delivery of legal assistance total	<u>397,800,000</u>	<u>(15,765,600)</u>	<u>4,899,428</u>	<u>2,315,360</u>	<u>389,249,188</u>
II. Management & grant oversight	17,000,000	(34,000)	4,439,926	-	21,405,926
III. Herbert S. Garten loan repayment assistance program	1,000,000	(2,000)	2,164,280	-	3,162,280
IV. Inspector General	4,200,000	(8,400)	2,151,911	-	6,343,511
Total Budget	<u>\$ 420,000,000</u>	<u>\$ (15,810,000)</u>	<u>\$ 13,655,545</u>	<u>\$ 2,315,360</u>	<u>\$ 420,160,905</u>

Legal Services Corporation
Management's Discussion and Analysis
September 30, 2012 and 2011

Table 2
Statement of Financial Position

	September 30	
	<u>2012</u>	<u>2011</u>
Total current assets and other assets	\$ 73,835,070	\$80,319,506
Net property and equipment	<u>637,802</u>	<u>754,240</u>
Total Assets	<u>74,472,872</u>	<u>81,073,746</u>
Grants and contracts payable	\$ 60,201,520	\$64,187,855
Other liabilities	1,699,212	2,193,618
Deferred revenue	<u>3,630,389</u>	<u>6,674,663</u>
Total Liabilities	65,531,121	73,056,136
Net Assets		
Undesignated	7,326,689	6,395,222
Designated	690,069	855,648
Net investment in fixed assets	637,802	754,240
Temporarily restricted	<u>287,191</u>	<u>12,500</u>
Total Net Assets	<u>8,941,751</u>	<u>8,017,610</u>
Total Liabilities and Net Assets	<u>\$ 74,472,872</u>	<u>\$81,073,746</u>

Legal Services Corporation
Management's Discussion and Analysis
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Table 3
Statement of Activities

	Years ended September 30,	
	2012	2011
Revenue		
Federal appropriations	\$ 348,000,000	\$ 404,190,000
Grant revenue	3,019,363	2,315,360
General revenues		
Change in deferred revenue	3,044,274	(718,856)
Contributed Services	-	67,145
Interest & other income	11,569	26,080
Total revenue	354,075,206	405,879,729
Expenses		
Program activities	332,753,738	384,544,860
Supporting activities	20,397,327	20,945,911
Total expenses	353,151,065	405,490,771
Change in net assets	924,141	388,958
Net assets, beginning of year	8,017,610	7,628,652
Net assets end of year	\$ 8,941,751	\$ 8,017,610

**Legal Services Corporation
Management's Discussion and Analysis
September 30, 2012 and 2011**

Fiscal Year 2012 and 2011 MGO Budgetary Analysis and Activity Description

Table 4 presents the final budgets for Management and Grants Oversight (MGO) for Fiscal Years 2012 and 2011.

**Table 4
Management and Grants Oversight
Operating Budgets for Years Ending September 2012 and 2011**

<u>Budget Category</u>	<u>2012</u>	<u>2011</u>
Compensation and benefits	\$ 13,319,050	\$ 14,905,225
Temporary employee pay	659,950	578,725
Consulting	1,346,100	1,127,200
Travel & transportation expenses	1,306,650	1,292,850
Communications	152,150	177,550
Occupancy cost	1,758,500	1,759,650
Printing and reproduction	91,100	101,150
Other operating expenses	2,573,756	803,576
Capital expenditures	<u>388,700</u>	<u>660,000</u>
Total	<u>\$ 21,595,956</u>	<u>\$ 21,405,926</u>

OPP focuses on the quality of legal services provided by grantees, using LSC's Performance Criteria as its primary guide. OPP's assessment of local program delivery systems included reviews of grantee priorities, client intake systems, outreach activities, legal work management and supervision, pro bono and private attorney involvement, board governance, leadership, resource development, and strategic planning.

During Fiscal Year 2012, OPP:

- Conducted full program quality visits to 21 grantee programs and one capability assessment in 17 states and territories to ensure the delivery of high-quality civil legal assistance.
- Performed 14 shorter program evaluation or technical assistance visits to another 16 programs in 11 states and territories to assess grantee activities, to follow-up on prior concerns, or provide technical assistance.
- Evaluated 72 proposals for funding from 47 applicants for 71 service areas in 31 states and territories, including one multiple-applicant area.
- Awarded 35 new Technology Initiative Grants (TIG), totaling more than \$2.5 million in 23 states and one territory. TIG funded several technology projects to enhance data analysis. These projects leverage technology to make better use of data to improve the effectiveness and efficiency of services provided to clients. TIG funding is also supporting several projects that use technology to increase pro bono involvement.
- Administered the Herbert S. Garten Loan Repayment Assistance Program (LRAP), which provides forgivable loans to attorneys to help LSC grantee programs recruit and retain highly qualified attorneys. A total of 202 attorneys in 100 programs received loans in FY 2012. Recipients ranged from new hires to attorneys with six years of service with a grantee.

**Legal Services Corporation
Management's Discussion and Analysis
September 30, 2012 and 2011**

- Provided guidance to LSC-funded programs in more than 16 states preparing for or responding to disasters, hosted three national disaster update and networking calls, and coordinated disaster relief funding to begin in 2012 for Legal Aid of Western Missouri to serve persons affected by the May 22, 2011 tornado in Joplin, Missouri.

During Fiscal Year 2012, OCE assessed the policies and procedures of grantees for compliance with legal requirements in such areas as client-income eligibility, nature of legal assistance provided, use of non-LSC funds, sub-grants, and various statutory prohibitions.

During Fiscal Year 2012, OCE:

- Conducted 17 Case Service Report/Case Management System (CSR/CMS) reviews, five follow-up reviews, and one financial internal controls review.
- Received 30 audit finding referrals from the Office of Inspector General for the audited financial statements for fiscal years ending between 6/30/11 and 12/31/11. OCE also received and, as appropriate, acted on 40 audit findings referred from audited financial statements for fiscal years ending between 12/31/10 and 12/31/11.
- Opened 68 complaints against grantees for violations of the LSC Act, regulations and guidelines, and closed 67 complaints.
- Reviewed and approved 61 subgrants.
- Reviewed 126 grantee/subgrantee-audited financial statements for fiscal years 2010 and 2011 to ensure compliance with the LSC Accounting Guide.
- Reviewed and approved fund balances at grantees, acting on 17 fund-balance waiver requests.
- Provided on-site CSR training for one grantee and continued to offer webinar based training for new Executive Directors.

Note 7 under Notes to Financial Statements presents the final expenses for MGO for fiscal years 2012 and 2011.

Legal Services Corporation Management's Discussion and Analysis September 30, 2012 and 2011

Fiscal Year 2012 OIG Budgetary Analysis and Activity Description

(The OIG prepared this section and it is included without change.)

In fulfilling the Inspector General duties at LSC, the OIG was guided by its own multi-year strategic plan and led by Inspector General Jeffrey E. Schanz. The FY 2012 OIG budget funded reviews of external grant recipients, IPAs, and internal LSC management operations and activities.

External grant recipient and IPA focused projects included:

- Audits of selected internal controls or technology initiative grants at LSC grant recipients including Center for Arkansas Legal Services, North Mississippi Rural Legal Services, Texas RioGrande Legal Aid, Southeast Louisiana Legal Services, South Jersey Legal Services, Inland Counties Legal Services (CA), Legal Services of Southern Missouri and an additional four grantee audits in progress at the end of the fiscal year;
- Desk reviews of 134 grantee audit reports with referral of all significant findings to LSC management for follow-up and resolution;
- Quality Control Reviews (QCR) to provide greater assurance as to the quality of the IPAs' audit work and identify or respond to potential concerns that may arise with a particular grantee or IPA. The reviews are conducted by an independent certified public accounting firm, operating under contract to the OIG. This fiscal year 39 QCRs were completed with a summary advisory memorandum sent to all IPA's and grantees and another 11 QCRs were in progress;
- Investigations of fraud or financial irregularities and subsequent prosecutions of significant theft of grant recipient funds, as well as, investigations of regulatory compliance. After a thorough review, the OIG closed 26 investigations of criminal and compliance matters;
- Proactive fraud awareness briefings designed to assist LSC and its grantees in preventing and detecting fraud; as well as advisories, webinars, fraud and regulatory vulnerability assessments. The OIG closed eight fraud vulnerability assessments and six regulatory vulnerability assessments; and performed 28 fraud awareness briefings, two webinars (available to all LSC grantees) and issued two fraud and one information security advisories;
- Operation of a nation-wide Hotline for the reporting of suspected fraud, waste or abuse in recipient programs or LSC;
- Continued involvement in litigation seeking subpoena enforcement in support of an investigation of a LSC grantee's possible violations of Congressional restrictions.

Projects reviewing selected LSC management operations and activities included:

- Oversight of the FY 2011 LSC corporate audit;
- Comments on LSC's proposed amendments to its regulations on enforcement mechanisms;
- Recommended to LSC Board Committee the use of the normal rulemaking process for proposal to alter the application of LSC's subgrant regulation;
- Recommendations on LSC's draft Strategic Plan for 2012 -2016;
- Workplace Safety and Security review update.

**Legal Services Corporation
Management's Discussion and Analysis
September 30, 2012 and 2011**

In addition, the OIG participates as a member of the Council of the Inspectors General for Integrity and Efficiency, the official organization of Federal inspectors general, and on its various committees and working groups.

Table 5 presents the final OIG budgets for Fiscal Years 2012 and 2011.

**Table 5
Office of Inspector General
Operating Budgets for Years Ending September 2012 and 2011**

Budget Category	2012	2011
Compensation and benefits	\$ 3,954,400	\$ 3,883,891
Temporary employee pay	40,000	40,000
Consulting	619,850	893,000
Travel & transportation expenses	385,000	400,000
Communications	34,050	44,700
Occupancy cost	6,000	6,000
Printing and reproduction	10,100	10,000
Other operating expenses	1,182,153	965,820
Capital expenditures	200,000	100,100
Total	<u>\$ 6,431,553</u>	<u>\$ 6,343,511</u>

**Legal Services Corporation
Management's Discussion and Analysis
September 30, 2012 and 2011**

**Table 6
Office of Inspector General
Operating Budget versus Actual Expenditures
For the year ended September 30, 2012**

<u>Budget Category</u>	<u>Final Budget</u>	<u>Expenditures</u>	<u>Variance</u>
Compensation and benefits	\$ 3,954,400	\$ 3,743,718	\$ 210,682
Temporary employee pay	40,000	22,647	17,353
Consulting	619,850	312,569	307,281
Travel and transportation	385,000	206,430	178,570
Communications	34,050	17,792	16,258
Occupancy cost	6,000	-	6,000
Printing and reproduction	10,100	8,170	1,930
Other operating expenses	1,182,153	60,313	1,121,840
Capital expenditures	200,000	135,922	64,078
TOTAL	\$ 6,431,553	\$ 4,507,561	\$ 1,923,992
Less: capitalized assets		(135,921)	135,921
		<u>\$ 4,371,640</u>	<u>\$ 2,059,913</u>

For the year ended September 30, 2011

<u>Budget Category</u>	<u>Final Budget</u>	<u>Expenditures</u>	<u>Variance</u>
Compensation and benefits	\$ 3,883,891	\$ 3,579,686	\$ 304,205
Temporary employee pay	40,000	8,408	31,592
Consulting	893,000	167,188	725,812
Travel and transportation	400,000	199,678	200,322
Communications	44,700	17,331	27,369
Occupancy cost	6,000	1,482	4,518
Printing and reproduction	10,000	8,271	1,729
Other operating expenses	965,820	56,668	909,152
Capital expenditures	100,100	73,246	26,854
TOTAL	\$ 6,343,511	\$ 4,111,958	\$ 2,231,553
Less: capitalized assets		(73,246)	73,246
		<u>\$ 4,038,712</u>	<u>\$ 2,304,799</u>

Legal Services Corporation Management's Discussion and Analysis September 30, 2012 and 2011

Future Events

In pursuit of the OIG's statutory mission, goals and objectives, the OIG will update its Strategic Plan, perform audit, evaluation, and investigative fact-finding activities and will make recommendations concerning laws and regulations affecting LSC in accordance with the IG Act and the LSC appropriations law. The OIG will continue to carry out its Congressionally-assigned responsibilities to oversee the IPAs' grantee audits, conduct reviews of grantees' internal controls, financial processes, and compliance with LSC laws and regulations, conduct audits and investigations, maintain a hotline, and evaluate the effectiveness and efficiency of LSC and its grant recipient operations.

Major Challenges

The need for civil legal assistance to low-income Americans has never been greater. Low-income Americans face legal issues involving matters of subsistence, safety, and family stability, and the number of low-income persons in poverty has risen substantially in recent years. Even before the 2008 recession, studies in several states found that about 80 percent of the legal needs of low-income families go unmet. Increasing numbers of unrepresented litigants are swamping state courts, especially those that deal with housing and family law matters.

In many states, significant parts of the non-federal funding structure have been essentially flat or declining over the last four years. An important source of non-federal funding for LSC programs, Interest on Lawyers' Trust Accounts, declined from \$111,797,730 in 2008 to \$60,840,247 in 2011. Total state and local grants and private grants also declined between 2010 and 2011.

LSC grants and related support in 2011 represented 43.3 percent of the total revenue that LSC grantees received. LSC appropriations increased from 2007 to 2010 and declined by 3.8 percent in 2011. On November 17, 2011, Congress voted to reduce LSC funding to \$348 million in Fiscal Year 2012. The appropriation reduced basic field funds by 14.8 percent, compared to Fiscal Year 2011, and has led to staff layoffs and reduced services at LSC-funded programs. Going forward, LSC and its grantees will face significant challenges in meeting the demand for civil legal assistance at a time of federal budget reductions.

At its October 2012 meeting, the Board approved a new Strategic Plan for LSC for 2012-2016. The plan sets forth three main goals for the next five years: to maximize the availability, quality, and effectiveness of the civil legal services that its grantees provide to eligible low-income individuals; to become a leading voice for civil legal services for poor Americans; and to achieve the highest standards of fiscal responsibility both for itself and its grantees.

LSC continues to make progress in implementing the recommendations from the June 2010 report by the Government Accountability Office (GAO) regarding controls over grant awards and grantee program effectiveness. To date, the GAO has closed or is in the process of closing 11 of the 17 recommendations. LSC has begun implementing the remaining open recommendations that were contingent on the Board's completion of the new strategic plan.

LSC faces an additional challenge, and an opportunity, in expanding access to justice by increasing pro bono and volunteer services at legal aid programs. The LSC Board's Pro Bono Task Force released a report of findings and recommendations on October 2, 2012 at the U.S. Capitol. The Task Force, co-chaired by Dean Martha Minow of the Harvard Law School and Harry J. F. Korrell III of Davis Wright Tremaine LLP, included more than 60 distinguished leaders and experts from the judiciary, major corporations, private practice, law schools, the federal government, and the legal aid community.

**Legal Services Corporation
Management's Discussion and Analysis
September 30, 2012 and 2011**

LSC also has begun negotiating its first collective bargaining agreement with its unionized employees. Employees in professional and administrative positions are represented by the International Federation of Technical and Professional Engineers.

RECENT EVENTS

The Budget Control Act of 2011 (BCA) is scheduled to go into effect January 2, 2013 unless Congress acts prior to that date to forestall automatic tax increases and spending reductions. If the BCA spending reductions are implemented, they will result in an 8.2 percent cut in LSC's appropriation as of January 2, 2013.



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To the Inspector General and Board of Directors
Legal Services Corporation:

In planning and performing our audit of the financial statements of Legal Services Corporation ("LSC") for the year ended September 30, 2012, in accordance with auditing standards generally accepted in the United States of America, we considered the LSC's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of LSC's internal control. Accordingly, we do not express an opinion on the effectiveness of the LSC's internal control.

However, during our audit, we became aware of a matter that is an opportunity for strengthening internal controls and operating efficiency. We previously reported on LSC's internal control in our letter dated December 26, 2012. This letter does not affect our report dated December 26, 2012, on the financial statements of Legal Services Corporation.

We will review the status of this comment during our next audit engagement. We have already discussed this comment and suggestions with various LSC personnel, and we will be pleased to discuss them in further detail at your convenience, to perform any additional study of this matter, or to assist you in implementing the recommendation. Our comments are summarized as follows:

Voided Checks/Bank Reconciliations

During our review of the September 30, 2012 bank statement and reconciliation, we noted weaknesses in the controls surrounding the bank reconciliation process and with the voiding of checks. Specifically, we found the following:

- LSC cut check #6013 on September 12, 2012 for \$22,280, payable to a grantee;
- On or before September 18, 2012, the Comptroller discovered an error in the amount of the check, so it was never mailed;
- The check was not voided in the accounting system until October 2012;
- Management had difficulty producing for the audit team the actual voided check, and required several days to locate it;
- A new check was subsequently issued on October 11, 2012 (check number 6028);
- The September 30, 2012 bank reconciliation, prepared and reviewed by the Comptroller's Office on October 31, continued to include the original check¹ as outstanding as of September 30 even after it had been voided and reissued in October; and
- LSC financial staff was not aware of GAAP requirements regarding held checks (checks not mailed until a subsequent accounting period) should be added back to cash as of September 30.

¹ Incorrectly listed as number 6004, instead of 6013



Sound business practices require transactions, including voided transactions, be recorded in the accounting system on a timely basis, and reconciliation procedures be performed to ensure that transactions are recorded correctly.

LSC's bank reconciliation is a manual process and the check number was inadvertently recorded incorrectly on the reconciliation. Additionally, LSC did not have timely procedures for voiding checks in the accounting system. Once the error was discovered, the accounting manager sought assistance from a consultant on how to properly void the check in the accounting system. However, the check was not voided until October 2012. Additionally, LSC did not maintain its voided checks in a file that is readily accessible or review that file in conjunction with its bank reconciliations.

As a result of this error, cash and accounts payable were misstated on the financial statements by \$22,280. We noted that LSC had 22 voided checks in Fiscal Year 2011 totaling \$73,824 and 48 voided checks in FY 2012 totaling \$42,181 (excluding the check referenced in this letter). Although this amount is not material, this same error could have occurred for a check in any amount.

We recommend that LSC:

- Prepare detailed written guidance on the steps needed to void a check in the accounting system;
- Establish procedures to ensure that voided checks are recorded into the accounting system prior to the end of an accounting period;
- Print a check register report to be used in conjunction with the bank register process to ensure that check numbers, dates, payees, and amounts are correct on the bank reconciliation;
- Establish procedures to capture the date checks were mailed (such as a check log), especially at year end, to ensure that held checks (checks written but not yet mailed), can be properly accounted for; and
- Explore the feasibility of using Sunsystems bank reconciliation module, or another third party bank reconciliation module that will work with Sunsystems, to streamline the bank reconciliation process and reduce the chance of error.

Management Response

During WS+B audit team's field work, the auditors identified a check that was initially prepared in September 2012 and voided in October, with a replacement check issued later in October. The initial check was never approved for release and never left the offices of LSC. LSC's Treasurer/Comptroller realized that the amount of the initial check was in error when he first reviewed it, and the check was held in the LSC safe.

LSC will clarify the voided checks procedures, and conduct and document training for our staff on it. LSC will implement all of WS+B's other recommendations.

We wish to thank the Comptroller and Inspector General and their departments for their support and assistance during our audit.

This report is intended solely for the information and use of management, the Board of Directors, and others within the Organization and is not intended to be and should not be used by anyone other than these specified parties.

Silver Spring, Maryland
December 26, 2012

Committee Evaluation

2012 AUDIT COMMITTEE EVALUATIONS

All 3 members gave positive evaluations.

Members liked:

- Focused agenda;
- Members prepared; and
- Leadership of the chair.

Ideas for improvement include:

- Finding that the discussion time is too limited;
- Desire for opportunity to informally get to know other members; and
- Greater focus on the OIG.

Future:

- Improved coordination with OIG;
- Greater involvement in the financial report process & LSC's internal control structure;
- Implement new charter; and
- Improve internal controls of grantees

403(b) Plan Performance



OFFICE OF HUMAN RESOURCES

MEMORANDUM

TO: The Audit Committee
FROM: Traci L. Higgins
DATE: January 7, 2013
SUBJECT: LSC 403(b) Thrift Plan – 4th Quarter 2012 Update

Report Content Update: At the suggestion of Victor Maddox, we recently decided that in lieu of my making an oral report and submitting an extensive written report on 403 (b) Thrift Plan performance for each quarterly meeting of the committee, I will make an oral report and submit an extensive written report only when significant developments affecting the plan occur (e.g., atypical performance, fund management changes, unusual disbursement activity, etc.). Otherwise, I will provide a summary report, which I do below.

403 (b) Plan Performance

LSC's funds have continued to perform solidly, with 24 of the 25 funds posting returns ranging from 6.23% to 19.05% through the close of November 2012. (Returns through December 31st will be available the week of January 14th.) Eighteen of the 25 LSC funds have YTD returns over 10%. One fund, Prudential Jennison Natural Resources, has a negative YTD return (-10.58%). It is one of two funds on our "watch list" for short term performance issues. Despite negative returns for 2012, Prudential Jennison still has good five- and ten-year returns - - 48% and 8%, respectively. The category of natural resources has been out of favor for several years, and these results are consistent with the sector. The second fund on the watch list is Lord Abbett Value Opportunities, which is in the mid-cap blend category. Its five-year ranking is within the top 14% of funds in its category, and its performance has improved steadily. Both funds are still "approved" by Mesirow.

403 (b) Plan Distributions

Between October 1st and December 31st, \$487,931 in plan distributions were made. Former LSC employees accounted for \$407,727.78 in standard roll-overs, pay-outs, and required minimum distributions. The balance of the distributions consisted of employee loans (\$36,775) and forfeitures (\$43,428.22); the latter represent funds returned to LSC for lack of vesting.

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

VIII. Finance Committee

FINANCE COMMITTEE

January 26, 2013

Agenda

1. Approval of agenda
2. Approval of minutes of the Committee's meeting of October 1, 2012
3. Presentation of LSC's Financial Report for FY 2012
4. Consider and act on Revised Temporary Operating Budget for FY 2013, Resolution 2013-0XX
 - Presentation by David Richardson, Treasurer & Comptroller
5. Presentation of LSC's Financial Report for the first two months of FY 2013
 - Presentation by David Richardson, Treasurer & Comptroller
6. Report of the Selection of Accounts and Depositories for LSC Funds
 - Presentation by David Richardson, Treasurer & Comptroller
7. Consider and Act on submission of LSC's FY 2014 budget request
 - Presentation Carol Bergman, Director, Office of Government Relations & Public Affairs
8. Discussion of Committee's evaluation for 2012 and the Committee's goals for 2013
9. Public comment
10. Consider and act on other business
11. Consider and act on adjournment of meeting

**Draft Minutes of the Finance
Committee's Open Session meeting
of September 30, 2012**

Legal Services Corporation
Meeting of the Finance Committee
Open Session
Sunday, September 30, 2012

DRAFT MINUTES

Chairman Robert J. Grey, Jr. convened an *open session* meeting of the Legal Services Corporation's ("LSC") Finance Committee ("the Committee") at 1:16 p.m. on Sunday, September 30, 2012. The meeting was held at the Hilton Durham Hotel, 3800 Hillsborough Road, Durham, North Carolina 27705.

The following Committee members were present:

Robert J. Grey, Jr., Chairman
Sharon L. Browne (by telephone)
Martha L. Minow
Father Pius Pietrzyk
Allan Tanenbaum (Non-Director Member)
John G. Levi, *ex officio*

Other Board members present:

Charles N.W. Keckler
Victor B. Maddox
Julie A. Reiskin

Also attending were:

James J. Sandman	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
David L. Richardson	Comptroller and Treasurer
Jeffrey E. Schanz	Inspector General
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the Inspector General
David Maddox	Assistant Inspector General for Management and Evaluation, Office of the Inspector General
Ronald “Dutch” Merryman	Assistant Inspector General for Audit, Office of Inspector General
Carol Bergman	Director, Office of Government Relations
Carl Rauscher	Director of Media Relations, Office of Government Relations and Public Affairs (GRPA)
Marcos Navarro	Design Director, (GRPA)
Janet LaBella	Director Office of Program Performance
Bernie Brady	LSC Travel Coordinator
Herbert Garten	Non-Director Member, Institutional Advancement Committee
Frank Strickland	Non-Director Member, Institutional Advancement Committee
Chuck Greenfield	National Legal Aid and Defender Association (NLADA)
Don Saunders	National Legal Aid and Defender Association (NLADA)
Terry Brooks	American Bar Association’s Standing Committee on Legal Aid and Indigent Defendants (SCLAID)
Ann Carmichael	American Bar Association’s Standing Committee on Legal Aid and Indigent Defendants (SCLAID)

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

Chairman Grey called the open session meeting to order and noted a quorum.

MOTION

Dean Minow moved to approve the agenda. Board Chairman Levi seconded the motion.

VOTE

The motion passed without objection.

MOTION

Board Chairman Levi moved to approve the minutes for the Committee's meetings of July 17, July 27, and August 20, 2012. Dean Minow seconded the motion.

VOTE

The motion passed without objection.

Chairman Grey asked Mr. Richardson to present LSC's financial reports for the ten-month period ending July 31, 2012. Mr. Richardson and President Sandman answered Committee members' questions.

Next, Ms. Bergman gave a report on the status of the FY 2013 appropriations process and answered Committee members' questions.

Mr. Richardson then presented the Temporary Operating Budget for FY 2013 along with the accompanying resolution.

MOTION

Board Chairman Levi moved to recommend to the full Board the adoption of the resolution approving the Temporary Operating Budget for FY 2013. Father Pius seconded the motion.

VOTE

The motion passed without objection.

President Sandman next provided a briefing on the lease for 3333 K Street, the Corporation's headquarters.

Chairman Grey solicited public comments and received none. There was no other business to consider.

MOTION

Father Pius moved to adjourn the meeting. Dean Minow seconded the motion.

VOTE

The motion passed by voice vote.

The open session meeting of the Committee adjourned at 2:02 p.m.

Finance Report for Fiscal Year 2012

FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

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

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

DATE: November 26, 2012

SUBJECT: September 2012 Financial Report

The annual financial report for Fiscal Year 2012 is attached for your review. There are four attachments that comprise this report:

Attachment A provides summary information for each element of the Consolidated Operating Budget (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*. The expenditures are compared to the annual budget and the report shows the variance for each budget line. The expenditures are also compared to the same period of the prior year.

- I. There are four elements included in the Delivery of Legal Assistance:
 1. The Basic Field Programs budget is \$324,066,604 and the grant expenses are \$323,232,739. The remaining funds of \$833,865 are earmarked to support grants in the Mississippi, Wyoming, and American Samoa service areas.

2. The U.S. Court of Veterans Appeals Funds budget totals \$2,730,170 and expenses total \$2,721,171. A grant was provided for \$2,700,000 and administrative costs totaled \$21,171. The remaining balance of \$8,999 will support next year's budget.
3. The Grants from Other Funds budget totals \$725,077; emergency grants totaling \$253,346 have been awarded. The balance of \$471,731 is available to support additional one-time grants.
4. The Technology Initiatives budget totals \$7,226,487. Net grant expenses are \$6,045,050 for the year. An additional thirty-five technology grants were completed in September, which totaled \$2,515,580. For the year, we provided 72 grants, and 8 prior year grants were canceled and the recaptured funds were netted with this year's grant expenses. The remaining funds of \$1,181,437 will be used for this year's technology grants and other technology initiative expenses.

- II. The LRAP budget is \$2,181,550 and expenses total \$575,462. The balance of \$1,606,088 will be used for future loans.

The second section of Attachment A presents expenditures for Management and Grants Oversight (MGO), ***Roman numeral III***, and the Office of Inspector General (OIG), ***Roman numeral IV***.

- III. MGO's annual budget totals \$21,595,956. The budget is comprised of the MGO operating budget of \$19,445,600 and the Contingency Funds totaling \$2,150,356.

The MGO operating budget of \$19,445,600 is compared to expenditures of \$15,773,329. This is \$3,672,271 or 18.88% under budget. Encumbrances for the period are \$66,139. The expenditures are \$1,208,955 less than the same period in 2011.

When the MGO Contingency Funds budget of \$2,150,356 is included, the percentage under budget is 26.96%.

- IV. The OIG's annual budget totals \$6,431,553. The budget consists of the OIG operating budget of \$5,330,755 and the Contingency Funds of \$1,100,798 to support the office's multi-year budget plans.

The OIG operating budget of \$5,330,755 is compared to expenditures of \$4,507,561. This is \$823,194 or 15.44% under budget. Encumbrances for the period are \$152,199. The expenditures are \$395,603 more than in 2011.

Including the OIG Contingency Funds budget allocation of \$1,100,798, the percentage under budget is 29.91%.

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. The variances show that we are under budget in each category.

The largest variance under budget totaling \$1,437,164 is from the Compensation and Benefits category. The reason for this variance is because we continue to have a number of budgeted open positions.

The open positions by cost center are as follows:

Executive Office – Chief Development Officer, and an Administrative Assistant;

Legal Affairs – Assistant General Counsel and an FOIA Administrator;

Information Technology – Chief Information Officer;

Program Performance – Deputy Director, Program Counsel, and Program Analyst;

Information Management – Research Assistant; and

Compliance and Enforcement – Deputy Director and an Administrative Assistant.

The second largest variance under budget is in the Consulting budget category in the amount of \$805,335. The cost centers that account for these variances include:

Board of Directors – for costs associated with strategic planning for the implementation phase of the Fiscal Oversight Task Force recommendations, and for developing an institutional development plan and guide to establish development operations;

Executive Office – for a union negotiation facilitator and for the Public Welfare Foundation grant funds;

Legal Affairs – for outside counsel costs;

Human Resources – for an auditor regarding LSC's retirement program;

Program Performance – for a consulting firm to review the internal controls of the grant competition process, per a Government Accountability Office recommendation; and

Compliance and Enforcement – for consulting services related to developing a fiscal risk assessment program and on-site fiscal review program consistent with best practices.

The third largest variance under budget is in the Travel and Transportation category in the amount of \$589,276. There are four cost centers that make up the largest portion of this variance: 1) Board of Directors; Executive Office; Program Performance; and Compliance and Enforcement.

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. When the MGO Operating Budget and Contingency Funds are combined, Other Operating Expenses has the largest variance under budget.

Attachment C, pages 1 and 2, presents a breakdown of the other operating expenses by account code and by cost center. The Board of Directors requested this review because when other operating expenses of the MGO Operating Budget and the Contingency Funds are combined, they create the second largest budget category within MGO. All of the cost centers are under budget.

Attachment D, page 1, shows a comparative OIG budget and expenditures by budget category and all are under budget.

The largest budget category variance in the OIG budget includes funds for:

- A. Consulting totaling \$307,281; the OIG has \$126,416 in encumbrances for the second round of Quality Control Reviews (QCR) of grantees' audit reports performed by independent public accountants and for IT support services.
- B. Travel/Transportation are \$178,570; the OIG has \$14,783 in encumbrances for the second round of the QCRs of grantees' audit reports.
- C. Compensation and Benefits variance totals \$210,682 because of open positions.

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)

cc Board of Directors
President
Corporate Secretary
Inspector General

LEGAL SERVICES CORPORATION
 CONSOLIDATED OPERATING BUDGET WORKSHEET
 FOR THE TWELFTH MONTH OF FISCAL YEAR 2012
 PERIOD ENDING SEPTEMBER 30, 2012

(1)	(2)			(3)	(4)	(5)	(6)		(7)
	ANNUAL BUDGET	ACTUAL	VARIANCE UNDER / (OVER)				PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)	
F I S C A L Y E A R 2 0 1 2									
I. DELIVERY OF LEGAL ASSISTANCE									
1. Basic Field Programs	\$324,066,604	323,232,739	\$833,865	0.26	\$0	\$377,892,572	(\$54,659,833)		
2. US Court of Vets Appeals Funds	2,730,170	2,721,171	8,999	0.33	0	2,311,575	409,596		
3. Grants From Other Funds	725,077	253,346	471,731	65.06	0	111,409	141,937		
4. Technology Initiatives	7,226,487	6,045,050	1,181,437	16.35	0	2,903,326	3,141,724		
TOTAL DELIVERY OF LEGAL ASSISTANCE	\$334,748,338	\$332,252,306	\$2,496,032	0.75	\$0	\$383,218,882	(\$50,966,576)		
II. HERBERT S. GARTEN LOAN REPAYMENT ASSISTANCE PROGRAM									
	\$2,181,550	575,462	1,606,088	73.62	\$0	\$1,517,646	(\$942,184)		
III. MANAGEMENT & GRANTS OVERSIGHT									
1. M & G O Operating Budget	\$19,445,600	\$15,773,329	\$3,672,271	18.88	\$66,139	\$16,982,284	(\$1,208,955)		
2. M & G O Contingency Funds	2,150,356	0	2,150,356	100.00	0	213,911	(213,911)		
TOTAL MANAGEMENT GRANTS & OVERSIGHT	\$21,595,956	\$15,773,329	\$5,822,627	26.96	\$66,139	\$17,196,195	(\$1,422,866)		
IV. INSPECTOR GENERAL									
1. I G Operating Budget	\$5,330,755	\$4,507,561	\$823,194	15.44	\$152,199	\$4,111,958	\$395,603		
2. I G Contingency Funds	1,100,798	0	1,100,798	100.00	0	0	0		
TOTAL INSPECTOR GENERAL	\$6,431,553	\$4,507,561	\$1,923,992	29.91	\$152,199	\$4,111,958	\$395,603		
TOTAL	\$364,957,397	\$353,108,658	\$11,848,739		\$218,338	\$406,044,681	(\$52,936,023)		

LEGAL SERVICES CORPORATION
CONSOLIDATED OPERATING BUDGET WORKSHEET
FOR THE TWELFTH MONTH OF FISCAL YEAR 2012
PERIOD ENDING SEPTEMBER 30, 2012

(1)	(2)		(4)		(5)		(6)		(7)	
	ANNUAL BUDGET	ACTUAL	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUMBRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)	COMPARATIVE		
F I S C A L Y E A R 2 0 1 2										
III. MANAGEMENT & GRANTS OVERSIGHT										
1. Board of Directors	\$630,500	\$320,863	\$309,637	49.11	\$23,599	\$514,765	(\$193,902)			
2. Executive Office	1,298,500	575,453	723,047	55.88	0	438,568	136,885			
3. Legal Affairs	1,437,850	1,134,475	303,375	21.10	0	1,197,193	(62,718)			
4. Government Relations/Public Affairs	913,200	822,863	90,337	9.89	0	798,652	24,211			
5. Human Resources	798,200	703,194	95,006	11.90	9,880	675,924	27,270			
6. Financial & Admin Services	3,389,200	3,033,108	356,092	10.51	0	3,126,666	(93,558)			
7. Information Technology	1,855,950	1,408,420	447,530	24.11	9,102	1,861,053	(452,633)			
8. Program Performance	4,198,650	3,731,918	466,732	11.12	6,233	4,039,564	(307,646)			
9. Information Management	675,250	587,420	87,830	13.01	0	625,750	(38,330)			
10. Compliance & Enforcement	4,248,300	3,455,615	792,685	18.66	17,325	3,704,149	(248,534)			
MANAGEMENT & GRANTS OVERSIGHT SUBTOTAL	\$19,445,600	\$15,773,329	\$3,672,271	18.88	\$66,139	\$16,982,284	(\$1,208,955)			
11. M G & O Contingency Funds	2,150,356	0	2,150,356	100.00	0	213,911	(213,911)			
TOTAL MANAGEMENT & GRANTS OVERSIGHT	\$21,595,956	\$15,773,329	\$5,822,627	26.96	\$66,139	\$17,196,195	(\$1,422,866)			

* 12/12THS OF THE 12 MONTH BUDGET

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE TWELFTH MONTH OF FY 2012 - PERIOD ENDING SEPTEMBER 30, 2012
MANAGEMENT AND GRANTS OVERSIGHT

BUDGET CATEGORY	(1)	(2)		(3)		(4)		(5)	(6)		(7)
	ANNUAL BUDGET	ACTUAL	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	FISCAL YEAR 2012	ENCUMBRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)	
TOTAL COMP./BENEFITS	12,899,050	11,461,886	1,437,164	11.14	11.14	-	11,944,073	(696,098)	11,944,073	(696,098)	
TEMP. EMPLOYEE PAY	659,950	434,164	225,786	34.21	34.21	-	507,878	(73,714)	507,878	(73,714)	
CONSULTING	1,346,100	540,765	805,335	59.83	59.83	57,037	618,470	(77,705)	618,470	(77,705)	
TRAVEL/TRANSPORTATION EXPS	1,306,650	717,374	589,276	45.10	45.10	-	800,517	(83,143)	800,517	(83,143)	
COMMUNICATIONS	152,150	86,507	65,643	43.14	43.14	-	106,814	(20,307)	106,814	(20,307)	
OCCUPANCY COST	1,758,500	1,711,870	46,630	2.65	2.65	-	1,730,590	(18,720)	1,730,590	(18,720)	
PRINTING & REPRODUCTION	91,100	61,182	29,918	32.84	32.84	-	62,706	(1,524)	62,706	(1,524)	
OTHER OPERATING EXPENSES	843,400	696,121	147,279	17.46	17.46	9,102	696,053	68	696,053	68	
CAPITAL EXPENDITURES	388,700	63,460	325,240	83.67	83.67	-	515,183	(451,723)	515,183	(451,723)	
TOTAL	\$19,445,600	\$15,773,329	\$3,672,271	18.88	18.88	\$66,139	16,982,284	(1,422,866)	16,982,284	(1,422,866)	

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE TWELFTH MONTH OF FY 2012 - PERIOD ENDING SEPTEMBER 30, 2012
MANAGEMENT GRANTS & OVERSIGHT CONTINGENCY FUNDS

BUDGET CATEGORY	(1)	(2)	(4)		(5)	(6)		(7)	(8)
	ANNUAL BUDGET	ACTUAL	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	\$420,000	-	420,000	-	-	213,911	(213,911)		
TEMP. EMPLOYEE PAY	-	-	-	-	-	-	-		
CONSULTING	-	-	-	-	-	-	-		
TRAVEL/TRANSPORTATION EXPS	-	-	-	-	-	-	-		
COMMUNICATIONS	-	-	-	-	-	-	-		
OCCUPANCY COST	-	-	-	-	-	-	-		
PRINTING & REPRODUCTION	-	-	-	-	-	-	-		
OTHER OPERATING EXPENSES	1,730,356	-	1,730,356	-	-	-	-		
CAPITAL EXPENDITURES	-	-	-	-	-	-	-		
TOTAL	\$2,150,356	-	2,150,356	\$0	213,911	(213,911)			

LEGAL SERVICES CORPORATION
OPERATING EXPENSES FOR FISCAL YEAR 2012
FOR THE TWELFTH MONTH OF FY 2012 - PERIOD ENDING SEPTEMBER 30, 2012
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	-	552,440	902,745	772,421	624,876	927,120
TEMPORARY EMPLOYEE PAY	-	-	12,418	-	14,390	-
CONSULTING	140,073	-	178,501	3,208	27,226	-
TRAVEL/TRANSPORTATION EXPS	131,891	19,242	10,247	13,905	2,237	8,748
COMMUNICATIONS	3,199	3,516	3,662	2,987	1,927	11,906
OCCUPANCY COST	770	-	-	-	-	1,710,000
PRINTING & REPRODUCTION	-	-	-	3,506	-	57,633
OTHER OPERATING EXPENSES	44,930	255	26,902	26,836	32,538	309,638
CAPITAL EXPENDITURES	-	-	-	-	-	8,063
TOTAL	\$320,863	\$575,453	\$1,134,475	\$822,863	\$703,194	\$3,033,108
BUDGET CATEGORY	INFORMATION TECHNOLOGY	PROGRAM PERFORMANCE	INFORMATION MANAGEMENT	COMPLIANCE & ENFORCEMENT	CONTINGENCY	TOTAL MGT & GRANTS OVERSIGHT
COMPENSATION & BENEFITS	989,066	3,120,946	562,806	3,009,466	-	11,461,886
TEMPORARY EMPLOYEE PAY	-	236,571	-	170,785	-	434,164
CONSULTING	97,884	51,198	-	42,675	-	540,765
TRAVEL/TRANSPORTATION EXPS	24,289	284,311	199	222,305	-	717,374
COMMUNICATIONS	33,042	16,098	23	10,147	-	86,507
OCCUPANCY COST	-	1,100	-	-	-	1,711,870
PRINTING & REPRODUCTION	43	-	-	-	-	61,182
OTHER OPERATING EXPENSES	208,699	21,694	24,392	237	-	696,121
CAPITAL EXPENDITURES	55,397	-	-	-	-	63,460
TOTAL	\$1,408,420	\$3,731,918	\$587,420	\$3,455,615	\$0	\$15,773,329

OTHER OPERATING EXPENSES FOR THE MONTH OF AUGUST 2012

ANNUAL BUDGET	ACTUAL	VARIANCE
\$843,400.00	696,121.00	147,279.00

ACCOUNT CODES	DESCRIPTION	COST CENTERS	YTD EXPENSE
5600	EQUIPMENT RENTAL	BOARD OF DIRECTORS GOVERNMENT RELATIONS/PUBLIC AFFAIRS FINANCIAL & ADMIN SERVICES INFORMATION TECHNOLOGY INFORMATION MANAGEMENT PROGRAM PERFORMANCE TOTAL	19,798.01 1,195.68 22,826.17 126,028.05 395.00 491.20 170,734.11
5610	OFFICE SUPPLIES	LEGAL AFFAIRS GOVERNMENT RELATIONS/PUBLIC AFFAIRS FINANCIAL & ADMIN SERVICES INFORMATION TECHNOLOGY PROGRAM PERFORMANCE INFORMATION MANAGEMENT TOTAL	69.69 1,256.99 55,612.41 9,774.63 1,140.00 1,231.12 69,084.84
5611	OFFICE EQUIPMENT	GOVERNMENT RELATIONS/PUBLIC AFFAIRS HUMAN RESOURCES FINANCIAL & ADMIN SERVICES INFORMATION TECHNOLOGY TOTAL	440.33 388.66 5,262.32 16,714.73 22,806.04
5620	COMMERCIAL INSURANCE	FINANCIAL & ADMIN SERVICES TOTAL	158,517.17 158,517.17
5640	DATA PROCESSING	LEGAL AFFAIRS GOVERNMENT RELATIONS/PUBLIC AFFAIRS HUMAN RESOURCES FINANCIAL & ADMIN SERVICES INFORMATION TECHNOLOGY INFORMATION MANAGEMENT TOTAL	20,804.32 62.95 9,440.00 24,048.50 55,167.06 1,099.86 110,622.69

OTHER OPERATING EXPENSES FOR THE MONTH OF AUGUST 2012			
ANNUAL BUDGET	ACTUAL		VARIANCE
\$843,400.00	696,121.00		147,279.00

ACCOUNT CODES	DESCRIPTION	COST CENTERS	YTD EXPENSE
5650	ADVERTISING & CLIPPING SERVICES	BOARD OF DIRECTORS OFFICE OF LEGAL AFFAIRS GOVERNMENT RELATIONS/PUBLIC AFFAIRS HUMAN RESOURCES PROGRAM PERFORMANCE TOTAL	24,448.00 3,816.00 6,222.21 12,799.50 17,601.29 64,887.00
5660	DUES & MEMBERSHIPS	EXECUTIVE OFFICE LEGAL AFFAIRS TOTAL	255.00 765.00 1,020.00
5670	SUBSCRIPTIONS	LEGAL AFFAIRS GOVERNMENT RELATIONS/PUBLIC AFFAIRS HUMAN RESOURCES FINANCIAL & ADMIN SERVICES INFORMATION TECHNOLOGY PROGRAM PERFORMANCE INFORMATION MANAGEMENT COMPLIANCE & ENFORCEMENT TOTAL	776.96 16,324.95 3,450.32 756.15 405.00 1,373.83 14,236.98 227.00 37,551.19
5680	EMPLOYEE LECTURES/OTHER ACTIVITIES	HUMAN RESOURCES FINANCIAL & ADMIN SERVICES TOTAL	3,524.17 30,926.48 34,450.65
5690	OFFICE EXPENSES	BOARD OF DIRECTORS LEGAL AFFAIRS GOVERNMENT RELATIONS/PUBLIC AFFAIRS HUMAN RESOURCES FINANCIAL & ADMIN SERVICES INFORMATION TECHNOLOGY PROGRAM PERFORMANCE INFORMATION MANAGEMENT COMPLIANCE & ENFORCEMENT TOTAL	684.14 670.30 1,333.28 2,935.64 11,688.80 610.00 1,087.47 7,429.10 10.00 26,448.73
	TOTAL OTHER OPERATING EXPENSES		\$696,122.42

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE TWELFTH MONTH OF FY 2012 - PERIOD ENDING SEPTEMBER 30, 2012
INSPECTOR GENERAL

BUDGET CATEGORY	(1)	(2)	(3)	(4)	(5)	(6)	(7)
	ANNUAL BUDGET	ACTUAL	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUMBRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
TOTAL COMP./BENEFITS	\$3,954,400	3,743,718	210,682	5.33	-	3,579,687	164,031
TEMP. EMPLOYEE PAY	40,000	22,647	17,353	43.38	-	8,408	14,239
CONSULTING	619,850	312,569	307,281	49.57	126,416	167,188	145,381
TRAVEL/TRANSPORTATION EXPS	385,000	206,430	178,570	46.38	14,783	199,678	6,752
COMMUNICATIONS	34,050	17,792	16,258	47.75	-	17,331	461
OCCUPANCY COST	6,000	-	6,000	100.00	-	1,482	(1,482)
PRINTING & REPRODUCTION	10,100	8,170	1,930	19.11	-	8,270	(100)
OTHER OPERATING EXPENSES	81,355	60,313	21,042	25.86	-	56,668	3,645
CAPITAL EXPENDITURES	200,000	135,922	64,078	32.04	11,000	73,246	62,676
TOTAL	\$5,330,755	4,507,561	823,194	15.44	\$152,199	4,111,958	395,603

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE TWELFTH MONTH OF FY 2012 - PERIOD ENDING SEPTEMBER 30, 2012
INSPECTOR GENERAL CONTINGENCY FUNDS

BUDGET CATEGORY	(1)	(2)	(4)		(5)	(6)		(7)	(8)
	ANNUAL BUDGET	ACTUAL	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUMBRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)	C O M P A R A T I V E	
TOTAL COMP./BENEFITS	-	-	-	-	-	-	-	-	-
TEMP. EMPLOYEE PAY	-	-	-	-	-	-	-	-	-
CONSULTING	-	-	-	-	-	-	-	-	-
TRAVEL/TRANSPORTATION EXPS	-	-	-	-	-	-	-	-	-
COMMUNICATIONS	-	-	-	-	-	-	-	-	-
OCCUPANCY COST	-	-	-	-	-	-	-	-	-
PRINTING & REPRODUCTION	-	-	-	-	-	-	-	-	-
OTHER OPERATING EXPENSES	\$1,100,798	-	1,100,798	-	-	-	-	-	-
CAPITAL EXPENDITURES	-	-	-	-	-	-	-	-	-
TOTAL	\$1,100,798	-	1,100,798	\$0	-	-	-	-	-

Revised Temporary Operating Budget
for Fiscal Year 2013



FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

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

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

DATE: January 6, 2013

SUBJECT: Fiscal Year (FY) 2013 Revised Proposed Temporary Operating Budget (TOB)

During the October Board Meeting, the Finance Committee and Board of Directors reviewed and approved a TOB to begin FY 2013. The \$360,889,022 TOB included funds from the Continuing Resolution totaling \$350,129,760, \$2,726,363 from the U.S. Court of Veterans Appeals, and projected FY 2012 carryover totaling \$10,032,899. With the close of the fiscal year and the audit completed, we have adjustments to the projected carryover in the amount of \$1,901,440. This will increase the TOB to \$364,790,462. The following table identifies the budget lines where adjustments are needed.

	(1)	(2)	(3)
	FY 2012 PROJECTED CARRYOVER	FY 2012 CARRYOVER	INCREASED (DECREASED) CARRYOVER
	-----	-----	-----
1. Basic Field Programs	\$ 833,865	\$ 833,865	\$ -
2. U.S. Court of Veterans Appeals Funds	1,000	8,999	7,999
3. Grants From Other Funds	519,138	546,361	27,223
4. Technology Initiatives	100,000	1,181,438	1,081,438
5. Herbert S. Garten LRAP	1,628,896	1,606,088	(22,808)
6. Management & Grants Oversight Operations	2,063,410	2,299,810	236,400
7. M & G O Research Initiative	287,073	287,191	118
8. M & G O Contingency Funds	2,799,517	3,246,595	447,078
9. Inspector General Operations	1,274,296	1,274,296	-
10. Inspector General Contingency Funds	525,704	649,696	123,992
	-----	-----	-----
TOTAL BUDGET	\$10,032,899	\$11,934,339	\$1,901,440
	=====	=====	=====

The U.S. Court of Veterans Appeals allows reimbursement of administrative expenses, which are estimated at the beginning of the fiscal year; expenses were \$7,999 lower than anticipated. This amount needs to be used to increase the U.S. Court of Veterans Appeals funds for FY 2013.

An additional grant recovery was received in September, and two contributions were received in FY 2012. The contributions were from the L. H. Tribe Charitable Foundation for \$500 and CIMA (LSC's insurance broker) for \$100. The grant recovery and the contributions increase the Grants from Other Funds budget line by \$27,223.

It was anticipated that the full amount of the Technology Initiative Grants (\$3,557,892) would be awarded in FY 2012. A number of awards were not completed, which resulted in a higher TIG carryover of \$1,081,438 that needs to be added to the FY 2013 budget. The remaining awards are expected to be made in FY 2013.

The decrease of \$22,808 in the Herbert S. Garten Loan Repayment Assistance Program (LRAP) was the result of scholarships that were provided in September, which required a reevaluation of the LRAP allowance account. Additional expenses were recognized that lowered the FY 2012 carryover.

With fewer expenses in Management and Grants Oversight (MGO) Operations than anticipated, there was additional carryover of \$683,596. This amount is shown in three different budget lines: 1) MGO Operations, 2) MGO Research Initiative, and 3) MGO Contingency Funds.

The Research Initiative was included in the MGO Operations budget in FY 2012. It has been broken out separately, and relates to the Public Welfare Foundation data collection grant and a new MGO Research Initiative budget line. One expense was estimated for the Research Initiative project turned out to cost \$118 less than anticipated. This amount increases the MGO Research Initiative budget line for FY 2013.

This proposal takes the remaining FY 2012 MGO carryover of 683,478, and allocates \$236,400 to MGO Operations and the remaining \$447,078 to MGO Contingency Funds.

This will increase the MGO Contingency to \$3,246,595. Management plan's to implement a reorganization for the Corporation's oversight operations during this fiscal year will require expenditure of some of the contingency funds.

The TOB memorandum of September 19th provided an analysis of operations and staffing. The revised TOB reflects the following adjustments:

Executive Office — Personnel compensation and benefits needs to be corrected by \$94,100 to fund the Chief Development Officer position, which was inadvertently under budgeted;

Legal Affairs — Other operating expenses of \$10,000 are needed for a new legal research subscription that will aid the office's work;

Government Relations/Public Affairs — Personnel compensation and benefits funds of \$77,500 are needed for a regular temporary hire for seven months. Treefa Aziz received a seven-month Brookings Institution fellowship that allows her to work in a staff position on Capitol Hill, which will give her experience that will be valuable to LSC. During her fellowship, an attorney from LSC's Office of Legal Affairs will be assuming her duties, and the adjustment reflects the temporary compensation and benefits costs; and

Human Resources and Information Technology — Personnel compensation and benefits are needed in the amount of \$8,950 and \$45,850, respectively in connection with recent personnel departures from LSC.

The Office of Inspector General (OIG) Contingency Funds will increase by \$123,992, and the funds are earmarked to supplement the support of the multiyear OIG budget planning.

Attached is a draft TOB resolution for your consideration along, with two supporting worksheets; 1) the Revised Temporary Operating Budget Worksheet and 2) the budget by office and by budget category. If you have any questions regarding the proposed MGO budget, please give me a call at (202) 295-1510. Questions regarding the Office of Inspector General's budget should be directed to Jeffrey Schanz (202) 295-1677 or David Maddox (202) 295-1653.

Attachments

Resolution 2013-XXX



BOARD OF DIRECTORS

RESOLUTION

Revised Temporary Operating Budget and Special Circumstance Operating Authority For Fiscal Year 2013

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

- 1) a fiscal year (FY) 2013 Continuing Resolution funding totaling \$350,129,760;
- 2) U.S. Court of Veterans Appeals Funds totaling \$2,726,363;
- 3) 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

BOARD OF DIRECTORS

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

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts a TOB for FY 2013 totaling \$364,790,462 of which \$333,090,922 is for the *Delivery of Legal Assistance*; \$2,612,208 is for the *Herbert S. Garten Loan Repayment Assistance Program*; \$22,937,636 is for *Management Grants Oversight*; and \$6,149,696 is for the *Office of Inspector General*, as reflected in the attached documents;

BE IT FURTHER RESOLVED that the Board hereby authorizes Management, in consultation with the Chairman of the Board and the Chairman of the Finance Committee, to increase or decrease the annual grants awards, as necessary, in reaction to the FY 2013 appropriation.

**Adopted by the Board of Directors
on January 26, 2013**

John G. Levi
Chairman

Victor M. Fortuno
Vice President for Legal Affairs,
General Counsel, and
Corporate Secretary

LEGAL SERVICES CORPORATION
 PROPOSED TEMPORARY OPERATING BUDGET

 FOR THE FISCAL YEAR 2013

	(1)	(2)	(3)	(4)	(5)	(6)
	FY 2013 CONTINUING RESOLUTION FUNDING -----	FY 2012 PROJECTED CARRYOVER -----	COURT OF VETS APPEALS & ADJUSTMENTS -----	FY 2013 TEMPORARY OPERATING BUDGET -----	FY 2012 CARRYOVER ADJUSTMENTS -----	REVISED CONSOLIDATED OPERATING BUDGET -----
I. DELIVERY OF LEGAL ASSISTANCE -----						
1. Basic Field Programs	324,373,088	833,865	-	325,206,953	-	325,206,953
2. U.S. Court of Veterans Appeals Funds	-	1,000	2,726,363	2,727,363	7,999	2,735,362
3. Grants From Other Funds	-	519,138	-	519,138	27,223	546,361
4. Technology Initiatives	3,420,808	100,000	-	3,520,808	1,081,438	4,602,246
	-----	-----	-----	-----	-----	-----
DELIVERY OF LEGAL ASSISTANCE TOTALS	327,793,896	1,454,003	2,726,363	331,974,262	1,116,660	333,090,922
II. HERBERT S. GARTEN						
LOAN REPAYMENT ASSISTANCE PROGRAM	1,006,120	1,628,896	-	2,635,016	(22,808)	2,612,208
III. MANAGEMENT & GRANTS OVERSIGHT -----						
1. M & G O Operations	17,104,040	2,063,410	-	19,167,450	236,400	19,403,850
2. M & G O Research Initiative	-	287,073	-	287,073	118	287,191
3. M & G O Contingency Funds	-	2,799,517	-	2,799,517	447,078	3,246,595
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MANAGEMENT & GRANTS OVERSIGHT TOTALS	17,104,040	5,150,000	-	22,254,040	683,596	22,937,636
IV. INSPECTOR GENERAL -----						
1. IG Operations	4,225,704	1,274,296	-	5,500,000	-	5,500,000
2. IG Contingency Funds	-	525,704	-	525,704	123,992	649,696
	-----	-----	-----	-----	-----	-----
INSPECTOR GENERAL TOTALS	4,225,704	1,800,000	-	6,025,704	123,992	6,149,696
	-----	-----	-----	-----	-----	-----
TOTAL BUDGET	\$350,129,760	\$10,032,899	\$2,726,363	\$362,889,022	\$1,901,440	\$364,790,462
	=====	=====	=====	=====	=====	=====

**LEGAL SERVICES CORPORATION
PROPOSED TEMPORARY 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	1,061,800	966,750	1,015,900	715,650	1,000,600
TEMP. EMPLOYEE PAY	0	0	14,550	22,100	7,500	10,100
CONSULTING	133,200	0	250,000	41,500	85,400	0
TRAVEL & TRANSPORTATION	240,600	91,500	16,400	25,825	45,100	16,200
COMMUNICATIONS	6,000	6,900	5,350	4,050	2,600	19,700
OCCUPANCY COSTS	0	0	0	0	0	1,720,000
PRINTING & REPRODUCTION	0	100	0	7,000	0	85,000
OTHER OPERATING EXPENSES	48,100	400	33,650	30,025	27,400	372,000
CAPITAL EXPENDITURES	0	0	0	0	0	50,000
TOTAL	427,900	1,160,700	1,286,700	1,146,400	883,650	3,273,600

BUDGET CATEGORY	INFORMATION TECHNOLOGY	PROGRAM PERFORM	INFORMATION MANGEMENT	COMPLIANCE & ENFORCE	MGT & GRNTS OVERSIGHT	INSPECTOR GENERAL
COMPENSATION & BENEFITS	1,148,050	3,637,075	562,850	3,722,800	13,831,475	4,363,500
TEMP. EMPLOYEE PAY	0	302,750	0	276,100	633,100	25,000
CONSULTING	79,600	85,000	0	50,000	724,700	550,000
TRAVEL & TRANSPORTATION	30,650	313,025	5,000	444,800	1,229,100	321,600
COMMUNICATIONS	40,400	21,100	100	16,700	122,900	28,000
OCCUPANCY COSTS	0	2,100	0	0	1,722,100	4,000
PRINTING & REPRODUCTION	0	0	0	0	92,100	12,000
OTHER OPERATING EXPENSES	332,900	20,550	30,900	1,200	897,125	100,900
CAPITAL EXPENDITURES	101,250	0	0	0	151,250	95,000
TOTAL	1,732,850	4,381,600	598,850	4,511,600	19,403,850	5,500,000

**Financial Report for the first two
months of Fiscal Year 2013**

FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

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

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

DATE: January 3, 2012

SUBJECT: November 2012 Financial Reports

The financial reports for the period ending November 30, 2012, are attached for your review and discussion. There are three worksheets that comprise this report, and we are using the fiscal year 2013 Temporary Operating Budget for our comparisons.

Attachment A provides summary information for each element of the Temporary Operating Budget 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***. The expenditures are compared to the annual budget and the report shows the variance for each budget line. The expenditures are also compared to the same period of the prior year.

- I. There are four elements included in the Delivery of Legal Assistance:

1. The Basic Field Programs budget is \$325,206,953; there are no grant expenses for this period. Grants totaling \$324,459,425 were awarded for 2013 and will show as expenses in the January financial report.
 2. The U.S. Court of Veterans Appeals Funds budget totals \$2,727,363, and there are no grant expenses for this period.
 3. The Grants from Other Funds budget totals \$519,138, and no emergency or one-time grants have been awarded for this period.
 4. The Technology Initiatives budget totals \$3,520,808, and there have been 5 grant awards totaling \$448,689.
- II. The Herbert S. Garten Loan Repayment Assistance Program's budget is \$2,635,016; there are no loan expenses for the period.

The second section of Attachment A presents expenditures for MGO and the OIG. The expenditures are compared to a pro rata allocation of the annual budget based on the number of months into the fiscal year.

- III. MGO's annual budget totals \$22,254,040. The budget is comprised of the MGO operating budget of \$19,167,450, the MGO Research Initiative (Public Welfare Foundation grants) of \$287,073 and the MGO Contingency Funds totaling \$2,799,517.

The MGO operating budget allocation for this reporting period is \$3,194,575, compared to actual expenses of \$2,580,233. LSC is under budget by \$614,342, or 19.23%. The expenditures are \$7,993 less than the same period in 2012, and the encumbrances for the period are \$186,278.

The MGO Research Initiative budget allocation is \$47,846, and there are no expenses.

The MGO Contingency Funds allocation is \$466,586, and there are no expenses.

- IV. The OIG's annual budget totals \$6,025,704. The budget consists of the OIG operating budget of \$5,500,000, and Contingency Funds of \$525,704.

The OIG operating budget allocation is \$916,667, compared to actual expenses of \$685,028. The OIG is \$231,639 or 25.27% under budget. The expenditures are \$69,622 less than in 2012, and the encumbrances are \$321,916.

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. The variances show that we are under budget in each category.

The largest variance under budget totaling \$314,393 is in the Compensation and Benefits category. This amount represents 51.15% (\$314,393 divided by \$614,342) of this month's variance and is due to open positions. The open positions by cost center are as follows:

Executive Office – Chief Development Officer and an Administrative Assistant;

Government Relations/Public Affairs – Web Content Manager;

Information Technology – Chief Information Officer¹;

Program Performance – Deputy Director, Program Counsel, Research Analyst, Program Analyst; and

Compliance and Enforcement – Deputy Director, four Fiscal Oversight Analysts, and an Administrative Assistant.

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, shows a comparative OIG budget and expenditures by budget category and all are under budget.

¹ A Chief Information Officer was hired and began work on January 2, 2013.

Robert J. Grey, Jr.
November 2012 Financial Reports
Page 4

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)

cc Board of Directors
President
Corporate Secretary
Inspector General

LEGAL SERVICES CORPORATION
 TEMPORARY OPERATING BUDGET WORKSHEET
 FOR THE SECOND MONTH OF FISCAL YEAR 2013
 PERIOD ENDING NOVEMBER 30, 2012

(1)	(2)	(3)	(4)	(5)	(6)	(7)		(8)
						PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)	
F I S C A L Y E A R 2 0 1 3								
	ANNUAL BUDGET	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	\$325,206,953	\$325,206,953	\$325,206,953	100.00	\$0	\$98,397	(\$98,397)	
2. US Court of Vets Appeals Funds	2,727,363	2,727,363	2,727,363	100.00	-	-	-	
3. Grants From Other Funds	519,138	519,138	519,138	100.00	-	253,346	(253,346)	
4. Technology Initiatives	3,520,808	3,520,808	3,072,119	87.26	-	3,206,550	(2,757,861)	
TOTAL DELIVERY OF LEGAL ASSISTANCE	\$331,974,262	\$331,974,262	\$331,525,573	99.86	\$0	\$3,558,293	(\$3,109,604)	
II. HERBERT S. GARTEN LOAN REPAYMENT ASSISTANCE PROGRAM	\$2,635,016	-	2,635,016 *	100.00	\$0	\$0	\$0	
III. MANAGEMENT & GRANTS OVERSIGHT								
1. M & G O Operating Budget	\$19,167,450	\$3,194,575	\$614,342	19.23	\$186,278	\$2,588,226	(\$7,993)	
2. M & G O Research Initiative	\$287,073	\$47,846	\$47,846	100.00	-	-	-	
3. M & G O Contingency Funds	2,799,517	466,586	466,586	100.00	-	-	-	
TOTAL MANAGEMENT & GRANTS OVERSIGHT	\$22,254,040	\$3,709,007	\$1,128,774	30.43	\$186,278	\$2,588,226	(\$7,993)	
IV. INSPECTOR GENERAL								
1. I G Operating Budget	\$5,500,000	\$916,667	\$231,639	25.27	\$321,916	\$754,650	(\$69,622)	
2. I G Contingency Funds	525,704	87,617	87,617	100.00	-	-	-	
TOTAL INSPECTOR GENERAL	\$6,025,704	\$1,004,284	\$319,256	31.79	\$321,916	\$754,650	(\$69,622)	
TOTAL	\$362,889,022	\$339,322,569	\$335,608,619		\$508,194	\$6,901,169	(\$3,187,219)	

** \$543,606 LRAP ACCOUNTS RECEIVABLE
 * 2/12THS OF THE 12 MONTH BUDGET

LEGAL SERVICES CORPORATION
TEMPORARY OPERATING BUDGET WORKSHEET
FOR THE SECOND MONTH OF FISCAL YEAR 2013
PERIOD ENDING NOVEMBER 30, 2012

		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	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
ANNUAL BUDGET	ACTUAL	SECOND MONTH OF FY 2013 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUMBRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
1. Board of Directors	\$427,900	\$71,317	\$17,788	24.94	\$23,599	\$74,875	(\$21,346)
2. Executive Office	1,066,600	177,767	35,864	20.17	-	61,212	80,691
3. Legal Affairs	1,276,700	212,783	76,854	36.12	-	188,962	(53,033)
4. Government Relations/Public Affairs	1,068,900	178,150	26,958	15.13	6,525	119,272	31,920
5. Human Resources	874,700	145,783	35,545	24.38	25,000	107,549	2,689
6. Financial & Admin Services	3,273,600	470,900	74,700	13.69	54,069	468,975	1,925
7. Information Technology	1,687,000	281,167	43,774	15.57	21,702	269,006	(31,613)
8. Program Performance	4,381,600	641,310	88,957	12.18	55,383	598,344	42,966
9. Information Management	598,850	99,808	6,785	6.80	-	101,446	(8,423)
10. Compliance & Enforcement	4,511,600	751,933	207,117	27.54	-	598,585	(53,769)
MANAGEMENT & GRANTS OVERSIGHT SUBTOTAL	\$19,167,450	\$3,194,575	\$614,342	19.23	\$186,278	\$2,588,226	(\$7,993)
11. M & G O Research Initiative	287,073	47,846	47,846	100.00	-	-	-
12. M & G O Contingency Funds	2,799,517	466,586	466,586	100.00	-	-	-
TOTAL MANAGEMENT & GRANTS OVERSIGHT	\$22,254,040	\$3,709,007	\$1,128,774	30.43	\$186,278	\$2,588,226	(\$7,993)

III. MANAGEMENT & GRANTS OVERSIGHT

* 2/12THS OF THE 12 MONTH BUDGET

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE SECOND MONTH OF FY 2013 - PERIOD ENDING NOVEMBER 30, 2012
MANAGEMENT AND GRANTS OVERSIGHT

BUDGET CATEGORY	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	ANNUAL BUDGET	ACTUAL	SECOND MONTH BUDGET	FISCAL YEAR 2012 VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUMBRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
TOTAL COMP./BENEFITS	13,605,525	1,953,193	2,267,586	314,393	13.86	-	1,889,126	64,067
TEMP. EMPLOYEE PAY	633,100	70,615	105,516	34,901	33.08	-	68,568	2,047
CONSULTING	724,700	64,836	120,784	55,948	46.32	103,982	113,505	(48,669)
TRAVEL/TRANSPORTATION EXPS	1,229,100	101,113	204,849	103,736	50.64	-	129,346	(28,233)
COMMUNICATIONS	122,450	12,149	20,409	8,260	40.47	-	9,504	2,645
OCCUPANCY COST	1,722,100	285,000	287,017	2,017	0.70	-	285,000	-
PRINTING & REPRODUCTION	92,100	4,604	15,351	10,747	70.01	54,069	179	4,425
OTHER OPERATING EXPENSES	887,125	85,965	147,855	61,890	41.86	28,227	79,756	6,209
CAPITAL EXPENDITURES	151,250	2,758	25,208	22,450	89.06	-	13,242	(10,484)
TOTAL	\$19,167,450	\$2,580,233	3,194,575	614,342	19.23	\$186,278	2,588,226	(7,993)

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE SECOND MONTH OF FY 2013 - PERIOD ENDING NOVEMBER 30, 2012
MANAGEMENT AND GRANTS OVERSIGHT CONTINGENCY FUNDS

BUDGET CATEGORY	(1)	(2)	(3)	(4)		(5)		(6)	(7)		(8)
	ANNUAL BUDGET	ACTUAL	SECOND MONTH BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUMBRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)	C O M P A R A T I V E		
TOTAL COMP./BENEFITS	\$650,000	-	108,333	108,333	-	-	-	-			
TEMP. EMPLOYEE PAY	-	-	-	-	-	-	-	-			
CONSULTING	-	-	-	-	-	-	-	-			
TRAVEL/TRANSPORTATION EXPS	-	-	-	-	-	-	-	-			
COMMUNICATIONS	-	-	-	-	-	-	-	-			
OCCUPANCY COST	-	-	-	-	-	-	-	-			
PRINTING & REPRODUCTION	-	-	-	-	-	-	-	-			
OTHER OPERATING EXPENSES	2,149,517	-	358,253	358,253	-	-	-	-			
CAPITAL EXPENDITURES	-	-	-	-	-	-	-	-			
TOTAL	\$2,799,517	-	466,586	466,586	\$0	\$0	-	-			

LEGAL SERVICES CORPORATION
OPERATING EXPENSES FOR FISCAL YEAR 2013
FOR THE SECOND MONTH OF FY 2013 - PERIOD ENDING NOVEMBER 30, 2012
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	-	134,713	127,296	142,141	100,624	151,311	
TEMPORARY EMPLOYEE PAY	-	-	-	-	-	-	
CONSULTING	16,982	-	7,098	600	6,431	-	
TRAVEL/TRANSPORTATION EXPS	29,256	6,560	1,094	3,986	626	602	
COMMUNICATIONS	138	630	441	546	139	659	
OCCUPANCY COST	-	-	-	-	-	285,000	
PRINTING & REPRODUCTION	-	-	-	-	-	4,604	
OTHER OPERATING EXPENSES	7,153	-	-	3,919	2,418	28,724	
CAPITAL EXPENDITURES	-	-	-	-	-	-	
TOTAL	\$53,529	\$141,903	\$135,929	\$151,192	\$110,238	\$470,900	
BUDGET CATEGORY	INFORMATION TECHNOLOGY	PROGRAM PERFORMANCE	INFORMATION MANAGEMENT	COMPLIANCE & ENFORCEMENT	RESEARCH INITIATIVES	CONTINGENCY	TOTAL MGT & GRANTS OVERSIGHT
COMPENSATION & BENEFITS	187,124	519,395	91,582	499,007	-	-	1,953,193
TEMPORARY EMPLOYEE PAY	-	56,347	-	14,268	-	-	70,615
CONSULTING	-	16,400	-	17,325	-	-	64,836
TRAVEL/TRANSPORTATION EXPS	25	46,680	-	12,284	-	-	101,113
COMMUNICATIONS	5,176	2,488	-	1,932	-	-	12,149
OCCUPANCY COST	-	-	-	-	-	-	285,000
PRINTING & REPRODUCTION	-	-	-	-	-	-	4,604
OTHER OPERATING EXPENSES	42,310	-	1,441	-	-	-	85,965
CAPITAL EXPENDITURES	2,758	-	-	-	-	-	2,758
TOTAL	\$237,393	\$664,310	\$93,023	\$544,816	\$0	\$0	\$2,580,233

OTHER OPERATING EXPENSES FOR THE MONTH OF NOVEMBER 2012

ANNUAL BUDGET	ACTUAL	SECOND MONTH BUDGET	UNDER / (OVER) BUD VS ACT VARIANCE
\$887,125.00	85,965.00	147,855.00	61,890.00

ACCOUNT CODES	DESCRIPTION	COST CENTERS	YTD EXPENSE
5600	EQUIPMENT RENTAL		
		BOARD OF DIRECTORS	7,005.90
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	597.12
		FINANCIAL & ADMIN SERVICES	1,758.00
		INFORMATION TECHNOLOGY	23,177.23
		TOTAL	32,538.25
5610	OFFICE SUPPLIES		
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	262.94
		FINANCIAL & ADMIN SERVICES	8,110.06
		INFORMATION TECHNOLOGY	4,751.07
		INFORMATION MANAGEMENT	39.32
		TOTAL	13,163.39
5611	OFFICE EQUIPMENT		
		HUMAN RESOURCES	145.73
		FINANCIAL & ADMIN SERVICES	788.24
		INFORMATION TECHNOLOGY	1,630.31
		TOTAL	2,564.28
5620	COMMERCIAL INSURANCE		
		FINANCIAL & ADMIN SERVICES	12,349.83
		TOTAL	12,349.83
5640	DATA PROCESSING		
		FINANCIAL & ADMIN SERVICES	944.41
		INFORMATION TECHNOLOGY	12,751.60
		TOTAL	13,696.01

OTHER OPERATING EXPENSES FOR THE MONTH OF NOVEMBER 2012				
ANNUAL BUDGET	ACTUAL	SECOND MONTH BUDGET	UNDER / (OVER) BUD VS ACT VARIANCE	
\$887,125.00	85,965.00	147,855.00	61,890.00	
ACCOUNT CODES	DESCRIPTION	COST CENTERS	YTD EXPENSE	
5650	ADVERTISING & CLIPPING SERVICES			
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	518.51	
		HUMAN RESOURCES	1,444.00	
		TOTAL	1,962.51	
5670	SUBSCRIPTIONS			
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	2,540.16	
		INFORMATION MANAGEMENT	622.13	
		TOTAL	3,162.29	
5680	EMPLOYEE LECTURES/OTHER ACT.			
		HUMAN RESOURCES	229.62	
		FINANCIAL & ADMIN SERVICES	3,354.75	
		TOTAL	3,584.37	
5690	OFFICE EXPENSES			
		BOARD OF DIRECTORS	147.50	
		HUMAN RESOURCES	598.65	
		FINANCIAL & ADMIN SERVICES	1,418.49	
		INFORMATION MANAGEMENT	779.67	
		TOTAL	2,944.31	
	TOTAL OTHER OPERATING EXPENSES		\$85,965.24	

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE SECOND MONTH OF FY 2013 - PERIOD ENDING NOVEMBER 30, 2012
INSPECTOR GENERAL

BUDGET CATEGORY	(1) ANNUAL BUDGET	(2) - (6) FISCAL YEAR 2012					(7) C O M P A R A T I V E PRIOR Y-T-D ACTUAL	(8) VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
		(2) ACTUAL	(3) SECOND MONTH BUDGET	(4) VARIANCE BUD VS ACT UNDER / (OVER)	(5) % OF VARIANCE UNDER / (OVER)	(6) ENCUMBRANCES		
TOTAL COMP./BENEFITS	\$4,363,500	626,751	727,249	100,498	13.82	-	629,269	(2,518)
TEMP. EMPLOYEE PAY	25,000	-	4,167	4,167	100.00	-	3,975	(3,975)
CONSULTING	550,000	21,142	91,667	70,525	76.94	288,457	75,464	(54,322)
TRAVEL/TRANSPORTATION EXPS	321,600	25,923	53,600	27,677	51.64	22,459	31,938	(6,015)
COMMUNICATIONS	28,000	4,308	4,667	359	7.69	-	3,101	1,207
OCCUPANCY COST	4,000	-	667	667	100.00	-	-	-
PRINTING & REPRODUCTION	12,000	1,039	2,000	961	48.05	-	1,592	(553)
OTHER OPERATING EXPENSES	100,900	4,870	16,817	11,947	71.04	-	6,853	(1,983)
CAPITAL EXPENDITURES	95,000	995	15,833	14,838	93.72	11,000	2,458	(1,463)
TOTAL	\$5,500,000	685,028	916,667	231,639	25.27	\$321,916	754,650	(69,622)

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE SECOND MONTH OF FY 2013 - PERIOD ENDING NOVEMBER 30, 2012
INSPECTOR GENERAL CONTINGENCY FUNDS

BUDGET CATEGORY	(1)	(2)			(4)		(5)	(6)		(7)	(8)
	ANNUAL BUDGET	ACTUAL	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUMBRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)	C O M P A R A T I V E			
TOTAL COMP./BENEFITS	-	-	-	-	-	-	-				
TEMP. EMPLOYEE PAY	-	-	-	-	-	-	-				
CONSULTING	-	-	-	-	-	-	-				
TRAVEL/TRANSPORTATION EXPS	-	-	-	-	-	-	-				
COMMUNICATIONS	-	-	-	-	-	-	-				
OCCUPANCY COST	-	-	-	-	-	-	-				
PRINTING & REPRODUCTION	-	-	-	-	-	-	-				
OTHER OPERATING EXPENSES	\$525,704	-	87,617	-	-	-	-				
CAPITAL EXPENDITURES	-	-	-	-	-	-	-				
TOTAL	\$525,704	-	87,617	\$0	-	-	-				

Accounts and Depositories



FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

TO: Robert J. Grey, Jr., Finance Committee Chairman
FROM: David L. Richardson, Treasurer/Comptroller *dlr*
cc: Jim Sandman
DATE: January 9, 2013
SUBJECT: Review of the Selection and Depositories for LSC Funds

This memorandum supplements my prior memorandum of December 21, 2012.

As you, President Sandman, and I discussed on December 27, 2012, I implemented the recommendation reflected in my earlier memorandum effective January 1, 2013. As we also discussed, President Sandman and I followed up with Bank of America to identify alternatives to the sweep account investing in securities issued by the Federal National Mortgage Association ("Fannie Mae") or the Federal Home Loan Mortgage Corporation ("Freddie Mac") that Bank of America (BofA) had recommended to us.

BofA provided additional information on a BofA Treasury Reserves Money Market Fund, which invests in only first-tier securities that consist of U.S. Treasury obligations and U.S. Government obligations whose principal and interest are backed by the full faith and credit of the U.S. Government. President Sandman and I concluded that his alternative was preferable to the sweep option for investing in Fannie Mae and Freddie Mae securities.

I also had further conversations with Wells Fargo, and with President Sandman's concurrence, agreed that Wells Fargo Bank would sweep the funds in excess of the FDIC-insured limit to its 100% Treasury Money Market Fund – Services Fund, which invests in high-quality, short-term money market instruments that consist of U.S. Treasury obligations, an option identified in my prior memorandum.

Robert J. Grey, Jr.

Review of the Selection and Depositories for LSC Funds

Page 2

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 written notice of the same to the Chair of LSC Finance Committee. This memorandum and my prior memorandum of December 12th reflect our compliance with this resolution.

If you have any questions, please let me know.



FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

TO: Robert J. Grey, Jr., Finance Committee Chairman
FROM: David L. Richardson, Treasurer/Comptroller *dlr*
cc: Jim Sandman
DATE: December 21, 2012
SUBJECT: Review of the Selection and Depositories for LSC Funds

Late in the summer, I began conversations with representatives from Bank of America and Wells Fargo Bank regarding the expiration of LSC's current account insurance coverage. LSC has protected its funds by following the Federal Deposit Insurance Corporation (FDIC) final rule that implemented the Dodd-Frank Wall Street Reform and Consumer Protection Act. This rule provided insurance coverage of all funds in noninterest-bearing accounts from December 10, 2010 through December 31, 2012. With this protection about to expire, I discussed with our banks ways of protecting our funds with the full faith and credit of the United States and, if possible, also providing LSC with interest income on deposited funds.

On December 3, 2012, President Sandman and I met to discuss our banking needs upon the expiration of the current protection on December 31. Jim asked that I talk with the banks to determine if there had been any new developments regarding a possible extension of the FDIC coverage and determine how we might best secure our funds with the least possible risk.

I have now had discussions with both banks. They are recommending that we establish sweep accounts. The process would begin with setting a maximum amount in LSC's operating account at each bank under the FDIC limit of \$250,000. Bank of America would sweep any funds in excess of the limit and purchase mortgage-backed securities issued by the Federal National Mortgage Association ("Fannie Mae") or Federal Home Loan Mortgage Corporation ("Freddie Mac") under an agreement that we established in April of 2009. This is the option that Bank of America recommends as the best option offered.

Robert J. Grey, Jr.

Review of the Selection and Depositories for LSC Funds

Page 2

Wells Fargo would sweep the funds to one of two financial instruments, Treasury Plus Money Market Fund – A, or 100% Treasury Money Market Fund – Services.

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 be provided with written notice of the same to the Chair of LSC Finance Committee.

Mr. Sandman and I agree with and approve of the changes recommended by Bank of America and Wells Fargo. This memorandum constitutes notice of our intention to make the recommended changes, effective January 1, 2013.

Attached are the documents that were provided by each.

If you have any questions, please let me know.

Attachments 3

Healthcare & Institutions
Commercial Banking
April 22, 2009

Mr. David L. Richardson, Treasurer and Comptroller
Legal Services Corporation
3333 K Street, N.W. 3rd Floor
Washington, D.C. 20007-3522

Hi Dave,

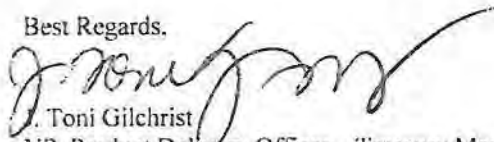
This letter is to provide further clarification about the Repurchase Agreement Service (Repo) that Legal Services Corporation has been using as an investment vehicle. A Repo Sweep is not covered by FDIC insurance. It truly is an investment product, not a deposit product covered by FDIC. The Underlying Securities within our Repurchase Agreements are mortgage-backed securities, which are guaranteed as to the payment of interest and repayment of principal by either Fannie Mae or Freddie Mac. Such principal and interest payments are not guaranteed by and are not debts or obligations of the United States or any federal agency or instrumentality, other than Fannie Mae or Freddie Mac. The mortgage-backed securities are collateralized by one or more pools of residential mortgage loans that conformed to the standards of Fannie Mae or Freddie Mac at the time of securitization. In addition, the Underlying Securities are guaranteed as to the payment of interest and repayment of principal by either Fannie Mae or Freddie Mac, which are government sponsored enterprises that were created to further the federal government's housing policy and exist as federally chartered for-profit corporations that are regulated by the Office of Federal Housing Enterprise Oversight. While the guarantees of Fannie Mae or Freddie Mac do not carry the full faith and credit of the United States government, Fannie Mae and Freddie Mac have special borrowing privileges allowing them access to large credit lines from the United States Treasury.

Under a Repo Sweep, at the end of each processing day, Bank of America, N.A. ("Bank of America") will sell you mortgage-backed securities issued by the Federal National Mortgage Association ("Fannie Mae") and/or the Federal Home Loan Mortgage Corporation ("Freddie Mac") (the "Underlying Securities") in an amount based on the excess funds amount in your account, as set forth in the bank's agreement with you for this service (the "Agreement"). At the opening of the next banking day, Bank of America will repurchase these same Underlying Securities from you in an amount equal to the amount invested plus interest, as set forth in the Agreement.

Bank of America's failure to repurchase the Underlying Securities would be an event of default under the Agreement. The Agreement states that, in this event, the bank will immediately (1) notify the Federal Reserve Bank where the Underlying Securities are held in book entry form, (2) transfer the Underlying Securities to a custodian, for the custodian to hold for your benefit, and (3) notify you. If a receiver is appointed for us, you could experience costs and delays in liquidating the Underlying securities, and may incur a loss if the value of the Underlying Securities declines during this period.

I hope this information is clear and provides you with the details you need.

Best Regards,



Toni Gilchrist
VP, Product Delivery Officer – Treasury Management

Tel: 202.442.3971 • Fax: 202.442.3988

Bank of America, DC1-701-02-02
730 15th Street, NW, Second Floor, Washington, DC 20005-1012

Recycled Paper

All information is as of 09-30-12 unless otherwise indicated. Information is subject to change.

Treasury Plus Money Market Fund - A

Key Facts

S&P Rating	AAAm
Moody's Rating	Aaa-mf
Share Class	A
Investment Minimum	\$1,000
Ticker	PIVXX
CUSIP	94975H320
Net Expense Ratio	0.62%
Total Fund Assets	\$11.7 Billion
Fund Manager	David Sylvester, Laurie R. White
Inception Date	10-01-85
Trading Deadline	5:00 PM, Eastern Time

Performance²

Current Yield as of 9-30-12

	7-Day SEC Yield
	0.01%
Month	30-Day Current Yield
September 2011	0.01%
October 2011	0.01%
November 2011	0.01%
December 2011	0.01%
January 2012	0.01%
February 2012	0.01%
March 2012	0.01%
April 2012	0.01%
May 2012	0.01%
June 2012	0.01%
July 2012	0.01%
August 2012	0.01%
September 2012	0.01%

Average Annual Total Returns as of 09-30-12

1 Year	3 Year	5 Year	10 Year	Since Inception
0.01%	0.01%	0.43%	1.38%	3.71%

The adviser has committed to certain fee waivers and/or expense reimbursements. These reductions may be discontinued at any time. If fees had not been waived, the 7-Day current yield would have been -0.46%, and the total return would have been lower.

Principal Investment Strategies

Seeks current income, while preserving capital and liquidity by investing in high-quality, short-term money market instruments that consist of U.S. Treasury obligations and repurchase agreements collateralized by U.S. Treasury obligations.

Portfolio Composition¹

% of Portfolio

- Treasury Repurchase Agreement: 59%
- Treasury Debt: 40%
- Other: 1%



Total: 100%

Portfolio Maturity Schedule (%)



Money Market Fund Statistics

Weighted Average Maturity: 39 Days

Weighted Average Final Maturity: 39 Days

Daily Liquid Assets: 98%

Weekly Liquid Assets: 100%

Figures quoted represent past performance, which is no guarantee of future results. Yields will fluctuate. Current performance may be lower or higher than the performance data quoted and assumes the reinvestment of dividends and capital gains. Current month-end performance is available at the funds' Website, wellsfargo.com/advantagefunds.

Money market funds are sold without a front-end sales charge or contingent deferred sales charge. Other fees and expenses apply to an investment in the Funds and are described in the Fund's current prospectus. (Continued on next page.)

Strength. Expertise. Partnership.

Wells Fargo Advantage Funds skillfully guides institutions, financial advisors, and individuals through the investment terrain to help them reach their financial objectives. Everything we do on behalf of our investors is built on the standards of integrity and service established by our parent company, Wells Fargo & Company; the expertise of our independent investment teams and rigorous ongoing investment review; and the collaborative level of superior service that is our trademark.

Fund Disclosures

An investment in a money market fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. Although the fund seeks to preserve the value of your investment at \$1.00 per share, it is possible to lose money by investing in a money market fund.

The U.S. Government guarantee applies to certain underlying securities and NOT to shares of the Fund.

1. Portfolio composition is subject to change and may have changed since the date specified.
2. The inception date of Class A shares was 7-28-03. Performance shown prior to the inception of Class A reflects the performance of the Service Class shares, adjusted to reflect Class A expenses.

Definition of Terms

Daily Liquid Assets: Are cash, direct obligations of the U.S. government, or securities that will mature or are subject to a demand feature exercisable and payable within one business day.

Weekly Liquid Assets: Are cash, direct obligations of the U.S. government, government securities issued on authority granted by the U.S. Congress that are issued at a discount to the principal amount to be repaid at maturity and have remaining maturity of 60 days or less or will mature or are subject to a demand feature this is exercisable and payable within five business days.

Weighted Average Final Maturity (WAFM): WAFM is an average of the final maturities of all securities held in the portfolio, weighted by their percentage of total investments. The maturity of a portfolio security is the period remaining until the date on which the principal amount is unconditionally required to be paid, or in the case of a security called for redemption, the date on which the redemption payment is unconditionally required to be made. The calculation of WAFM allows for the maturities of certain securities with demand features to be shortened, but unlike the calculation of WAM, does not allow shortening of the maturities of certain securities with periodic interest rate resets. WAFM is a way to measure a fund's potential sensitivity to credit spread changes.

Weighted Average Maturity (WAM): WAM is an average of the effective maturities of all securities held in the portfolio, weighted by each security's percentage of total investments. The maturity of a portfolio security is the period remaining until the date on which the principal amount is unconditionally required to be paid, or in the case of a security called for redemption, the date on which the redemption payment is unconditionally required to be made. WAM calculations allow for the maturities of certain securities with demand features or periodic interest rate resets to be shortened. WAM is a way to measure a fund's sensitivity to potential interest rate changes.

Rating agencies: The ratings indicated are from Standard & Poor's (S&P), Moody's Investors Service, and/or Fitch Ratings Ltd. (together, "rating agencies"). Standard & Poor's is a trademark of McGraw-Hill, Inc., and has been licensed. The funds are not sponsored, endorsed, sold, or promoted by these rating agencies, and these rating agencies make no representation regarding the advisability of investing in the funds. The credit rating is a forward-looking opinion about a fund's potential capacity to maintain stable principal or stable net asset value. The ratings are opinions as of the date they are expressed and not statements of fact or recommendations to purchase, hold, or sell any security. Standard & Poor's rates the creditworthiness of money market funds from AAAm (highest) to Dm (lowest). Moody's rates the creditworthiness of money market funds from Aaa-mf (highest) to C-mf (lowest). Fitch Ratings Ltd. rates the creditworthiness of money market funds from AAAmmf (highest) to Bmmf (lowest).

This fact sheet must be accompanied or preceded by a current prospectus for Class A shares of the Wells Fargo Advantage Money Market Funds.

Wells Fargo Funds Management, LLC, a wholly owned subsidiary of Wells Fargo & Company, provides investment advisory and administrative services for *Wells Fargo Advantage Funds*. Other affiliates of Wells Fargo & Company provide subadvisory and other services for the Funds. The Funds are distributed by **Wells Fargo Funds Distributor, LLC**, Member FINRA/SIPC, an affiliate of Wells Fargo & Company.

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212388 10-12 MMFS007

WELLS FARGO ADVANTAGE MONEY MARKET FUNDS

All information is as of 09-30-12 unless otherwise indicated. Information is subject to change.

100% Treasury Money Market Fund - Service

Key Facts

S&P Rating	AAAm
Moody's Rating	Aaa-mf
Share Class	Service
Investment Minimum	\$100,000
Ticker	NWTXX
CUSIP	94975H270
Net Expense Ratio	0.50%
Total Fund Assets	\$9.5 Billion
Fund Manager	David Sylvester, Laurie R. White
Inception Date	12-03-90
Trading Deadline	1:00 PM, Eastern Time

Performance

Current Yield as of 9-30-12

	7-Day SEC Yield
	0.00%
Month	30-Day Current Yield
September 2011	0.01%
October 2011	0.01%
November 2011	0.01%
December 2011	0.01%
January 2012	0.00%
February 2012	0.00%
March 2012	0.00%
April 2012	0.00%
May 2012	0.00%
June 2012	0.00%
July 2012	0.00%
August 2012	0.00%
September 2012	0.00%

Average Annual Total Returns as of 09-30-12

1 Year	3 Year	5 Year	10 Year	Since Inception
0.01%	0.02%	0.45%	1.40%	2.95%

The adviser has committed to certain fee waivers and/or expense reimbursements. These reductions may be discontinued at any time. If fees had not been waived, the 7-Day current yield would have been -0.58%, and the total return would have been lower.

Principal Investment Strategies

Seeks current income exempt from most state and local individual income taxes, while preserving capital and liquidity. Invests in high-quality, short-term money market instruments that consist of U.S. Treasury obligations.

Portfolio Composition¹

% of Portfolio

- Treasury Debt: 98%
- Cash: 2%



Total: 100%

Portfolio Maturity Schedule (%)



Money Market Fund Statistics

Weighted Average Maturity: 51 Days

Weighted Average Final Maturity: 51 Days

Daily Liquid Assets: 100%

Weekly Liquid Assets: 100%

Figures quoted represent past performance, which is no guarantee of future results. Yields will fluctuate. Current performance may be lower or higher than the performance data quoted and assumes the reinvestment of dividends and capital gains. Current month-end performance is available at the funds' Website, wellsfargo.com/advantagefunds.

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(Continued on next page.)

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Fund Disclosures

An investment in a money market fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. Although the fund seeks to preserve the value of your investment at \$1.00 per share, it is possible to lose money by investing in a money market fund. A portion of the fund's income may be subject to federal, state, and/or local income taxes or the alternative minimum tax (AMT).

The U.S. Government guarantee applies to certain underlying securities and NOT to shares of the Fund.

1. Portfolio composition is subject to change and may have changed since the date specified.

Definition of Terms

Daily Liquid Assets: Are cash, direct obligations of the U.S. government, or securities that will mature or are subject to a demand feature exercisable and payable within one business day.

Weekly Liquid Assets: Are cash, direct obligations of the U.S. government, government securities issued on authority granted by the U.S. Congress that are issued at a discount to the principal amount to be repaid at maturity and have remaining maturity of 60 days or less or will mature or are subject to a demand feature this is exercisable and payable within five business days.

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212408 10-12 MMF5020

Budget Request for Fiscal Year 2014

Legal Services Corporation Pro Bono Innovation Fund Proposal

Overview. For many of the millions of Americans who crowd legal aid offices each year, a lawyer is their lifeline to our system of justice. This lifeline is being stretched to the breaking point by a combination of record-breaking demand and sharply reduced resources for legal services.

The Legal Services Corporation (LSC) is the single largest funder of civil legal aid for low income Americans, providing grants to 134 non-profit legal aid organizations in every state. These programs address civil matters that go to the heart of their clients' safety and security—helping women and children escape abusive relationships, families avert wrongful foreclosures, the elderly avoid consumer scams, and veterans receive the benefits they deserve.

In 2011, LSC's Board of Directors formed a Pro Bono Task Force of more than 60 distinguished leaders from the legal profession and charged it with identifying how to engage pro bono lawyers to leverage LSC's federal funding and increase the resources available to serve low-income people. The Task Force issued a comprehensive report and set of recommendations in October of 2012. One of the recommendations is the creation of an Innovation Fund to promote creativity in expanding legal assistance across the country. The following provides a brief framework for LSC's Pro Bono Innovation Fund.

Purpose. The purpose of the Innovation Fund would be to establish a competitive grant program that will invest in projects that identify and promote replicable innovations in pro bono for the benefit of the eligible poverty population. Projects funded under this program will develop, test, and replicate innovative pro bono efforts that can enable LSC grant recipients 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.

The award of an innovation grant is not meant to substitute for, or be credited against, the longstanding requirement that LSC recipients spend an amount equivalent to 12.5 percent of their basic field grant to involve private attorneys in the delivery of legal assistance to eligible clients.

Eligible Applicants. Eligible applicants for the LSC 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, and government attorneys.
- 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.
- Forming cohorts of lawyers to expand volunteerism by leveraging shared interests and experiences.

Partnerships. Applicants would be encouraged to work in partnerships with key stakeholders in their communities. Potential stakeholders could include, among others, court systems, bar associations, client groups, government agencies, and other non-profit organizations.

Additional Funds from Other Organizations. Applicants would be strongly encouraged to seek additional support for projects by partnering with other LSC recipients as well as other organizations.

Evaluation. Evaluation is an important project planning and management tool. Applicants would need to identify the methods and data they plan to use to assess progress toward the project objectives. A final grant payment would not be provided until an approved final grant report was submitted; that report would include evaluation data about a project’s activities, accomplishments and effectiveness.

Award Period. The grant award period would be between 18 and 24 months.

Amount. The Legal Services Corporation respectfully requests \$5 million annually for the Innovation Fund.

Management and Administration. Five percent of the total funding for the Innovation Fund would be retained by LSC for management and administrative purposes associated with the Fund.

Resolution 2013-XXX



BOARD OF DIRECTORS

RESOLUTION

ADOPTING LSC'S REVISED APPROPRIATION REQUEST FOR FISCAL YEAR 2014

WHEREAS, the Board of Directors (“Board”) of the Legal Services Corporation (“LSC” or “Corporation”) has received and carefully considered information regarding the Corporation’s Fiscal Year (“FY”) 2014 appropriation request;

WHEREAS, the Board has determined that LSC is a program in vital need of additional funding to provide for the legal services needs of people in poverty

WHEREAS, the Board previously approved Resolution 2012-016 on August 31, 2012 for an appropriation request of \$481,000,000 for FY 2014;

WHEREAS, LSC’s Pro Bono Task Force issued a report in September 2012 recommending the establishment of a Pro Bono Innovation Fund; and

WHEREAS, the LSC Board believes that a Pro Bono Innovation Fund in the amount of \$5,000,000 would improve the delivery of legal services to people in poverty;

NOW, THEREFORE, BE IT RESOLVED that the Corporation will request of Congress an appropriation of \$486,000,000 for FY 2014, to be allocated as follows:

- \$ 451,300,000 for Basic Field;
- \$ 5,000,000 for Technology Initiative Grants;
- \$ 1,000,000 for Loan Repayment Assistance Program;
- \$ 5,000,000 for Pro Bono Innovation Fund;
- \$ 19,500,000 for Management & Grants Oversight; and
- \$ 4,200,000 for the Office of Inspector General.

**Adopted by the Board of Directors
on January 26, 2013**

John G. Levi
Chairman

BOARD OF DIRECTORS
RESOLUTION

Victor M. Fortuno
Vice President for Legal Affairs,
General Counsel & Corporate Secretary

Committee Evaluation

2012 FINANCE COMMITTEE EVALUATIONS

All 5 members gave positive reviews.

Members liked:

- Thorough attention;
- Respect for others' opinions;
- Meetings run professionally;
- Members' skill sets;
- Presentations;
- Ability to advance mission.

Ideas for improvement include:

- More attention to long term;
- "More info from congressional requests;"
- More consistently set up telephonic meetings between Board meetings to get regular financial reports; and
- Better technology.

Future:

- Look at alternative funding sources; and
- How to better tell the LSC story.

IX. Board of Directors

BOARD OF DIRECTORS

January 26, 2013

Agenda

OPEN SESSION

1. Pledge of Allegiance
2. Approval of agenda
3. Approval of minutes of the Board's Open Session telephonic meeting of November 29, 2012
4. Consider and act on nominations for the Chairman of the Board of Directors
5. Consider and act on nominations for the Vice Chairman of the Board of Directors
6. Consider and act on delegation to the Chairman of authority to make committee appointments, including the appointment of committee Chairs and non-director members
7. Chairman's Report
8. Members' Reports
9. President's Report
10. Inspector General's Report
11. Consider and act on the report of the Promotion and Provision for the Delivery of Legal Services Committee
12. Consider and act on the report of the Finance Committee
13. Consider and act on the report of the Audit Committee
14. Consider and act on the report of the Operations and Regulations Committee

15. Consider and act on the report of the Governance and Performance Review Committee
16. Consider and act on the report of the Institutional Advancement Committee
17. Consider and act on Resolution 2013-XXX thanking the Members of the Pro Bono Task Force for their service on the Task Force
18. Consider and act on a request of a corporate officer for permission to accept compensation for outside employment
19. Public comment
20. Consider and act on other business
21. Consider and act on whether to authorize an executive session of the Board to address items listed below, under Closed Session

CLOSED SESSION

22. Approval of Minutes of the Board's Closed Session of October 2, 2012
24. Management Briefing
25. Inspector General Briefing
26. Consider and act on General Counsel's report on potential and pending litigation involving LSC
27. Consider and act on motion to adjourn meeting

**Draft Minutes of the Board's Open
Session meeting of November 29, 2012**

Legal Services Corporation
Meeting of the Board of Directors
Open Session
Thursday, November 29, 2012

DRAFT MINUTES

Chairman John G. Levi convened an open session telephonic meeting of the Legal Services Corporation's ("LSC") Board of Directors ("the Board") at 5:01 p.m. on Thursday, November 29, 2012. The meeting was held at the F. William McCalpin Conference Center, LSC Headquarters, 3333 K Street, NW, Washington D.C. 20007.

The following Board Members were present by telephone:

John G. Levi, Chairman
Martha L. Minow, Vice Chair
Sharon L. Browne
Charles N.W. Keckler
Harry J.F. Korrell, III
Laurie I. Mikva
Julie A. Reiskin
Father Pius Pietrzyk
Gloria Valencia-Weber

Also attending were:

James J. Sandman President
Richard Sloane Chief of Staff and Special Assistant to the President

Minutes: November 29, 2012: Open Session Telephonic Meeting of the Board of Directors
Page 1 of 5

Rebecca Fertig	Special Assistant to the President
Lynn Jennings	Vice President for Grants Management
Kathleen McNamara	Executive Assistant to the President
Victor M. Fortuno	Vice President for Legal Affairs, General Counsel and Corporate Secretary
Katherine Ward	Executive Assistant, Office of Legal Affairs
Jeffrey E. Schanz	Inspector General
Ronald "Dutch" Merryman	Assistant Inspector General for Audit, Office of the Inspector General
David Maddox	Assistant Inspector General for Management and Evaluation, Office of the Inspector General
Carl Rauscher	Director of Media Relations, GRPA
Elizabeth Arledge	Communications Manager, GRPA
Treefa Aziz	Government Affairs Representative, GRPA
Lora Rath	Director, Office of Compliance and Enforcement
John Eidleman	Senior Program Counsel, Office of Program Performance
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 open session telephonic meeting of the Board to order.

MOTION

Dean Minow moved to approve the agenda. Ms. Reiskin seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Ms. Reiskin moved to approve the minutes of the Board's meeting of October 1-2, 2012.

Dean Minow seconded the motion.

VOTE

The motion passed by voice vote.

Chairman Levi invited Inspector General Schanz before the Board to discuss the Semiannual Report (SAR) to Congress for the six-month period of April 1, 2012 through September 30, 2012. President Sandman also noted brief updates to the Board's transmittal letter for the SAR. The Board members shared comments on the transmittal letter and additional amendments were made.

MOTION

Dean Minow moved to approve submitting the SAR transmittal letter to Congress, as amended. Professor Valencia-Weber seconded the motion.

VOTE

The motion passed by voice vote.

President Sandman and Mr. Eidleman gave a report on legal services needs and activities relating to Hurricane Sandy. Mr. Eidleman provided an overview of the impact of Hurricane Sandy in New Jersey, New York, and Connecticut and the need for legal assistance. President Sandman reported on legislative developments related to supplemental appropriations funding for post-Hurricane Sandy relief. They answered Board members' questions.

Chairman Levi solicited public comment and received none.

In other business, Professor Valencia-Weber asked if the other Board members were familiar with a report by Laura K. Abel, National Center for Access to Justice at Cardozo Law School, titled "Economic Benefits of Civil Legal Aid." She offered to circulate it to the Board members.

MOTION

Dean Minow moved to adjourn the meeting. Professor Valencia-Weber seconded the motion.

VOTE

The motion passed by voice vote.

The open session meeting of the Board adjourned at 5:31 p.m.

**Delegation of Authority to the
Chairman for appointment**

Resolution 2013-XXX

RESOLUTION

DELEGATING TO THE CHAIRMAN AUTHORITY TO APPOINT THE MEMBERSHIP AND DESIGNATE THE CHAIRS OF BOARD COMMITTEES

WHEREAS, Article V of the Bylaws (“Bylaws”) of the Legal Services Corporation (“LSC” or “Corporation”) provides that the Board of Directors (“Board”) “may appoint and designate or may delegate to the Board Chair the authority to appoint Directors or non-Directors, as appropriate, to serve on committees, or to designate committee chairs”; and

WHEREAS, the Bylaws also provide that “[a]ny non-Director may be appointed to serve as a voting or non-voting member of a committee, as determined by the Board or, if the appointing authority has been delegated, by the Board Chair”; and

WHEREAS, the Board has determined that having non-Directors with appropriate backgrounds and expertise serve on committees is prudent and that they would be helpful to the Board in discharging its responsibilities;

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the Bylaws, the Board hereby delegates to the Board Chair the authority to appoint both Directors and non-Directors, as appropriate, to serve on the various committees of the Board; and

BE IT FURTHER RESOLVED that the Board Chair is further delegated the authority and discretion to designate whether any non-Director he appoints to a committee is to serve as a voting or non-voting member of the committee, but no non-Director shall count towards a quorum; and

BE IT FUTHER RESOLVED that the Board Chair is further delegated the authority and discretion to designate the Chair of each committee.

Adopted by the Board of Directors
on January 26, 2013

John G. Levi
Chairman

Victor M. Fortuno
*Vice President, General Counsel
& Corporate Secretary*

**Pro Bono Task Force Recognition
Resolution 2013-XXX**



BOARD OF DIRECTORS

RESOLUTION
IN RECOGNITION AND APPRECIATION OF
DISTINGUISHED SERVICE
BY
[INSERT TASK FORCE MEMBER'S NAME]

WHEREAS, by Resolution adopted on March 31, 2011, the LSC Board of Directors established the *Pro Bono* Task Force, comprised of distinguished judges, governors, law professors, lawyers and other professionals, “to identify and recommend to the Board new and innovative ways in which to promote and enhance *pro bono* initiatives throughout the country, including urban areas, rural areas, and areas with underserved populations”; and

WHEREAS _____ graciously volunteered [**his/her**] time and expertise to the Task Force, providing invaluable insights, perspective, and guidance throughout the year-long fact-finding and report-preparation process; and

WHEREAS _____ has served on the Task Force with great professionalism, dedication, and distinction; and

WHEREAS the Task Force’s recommendations will assist LSC in fulfilling its mission;

NOW, THEREFORE, BE IT RESOLVED that LSC’s Board of Directors acknowledges and extends its gratitude to _____ for [**his/her**] dedicated service to the *Pro Bono* Task Force and notable contribution to LSC’s mission of expanding access to justice to low-income Americans.

Adopted by the Board of Directors
On January 26, 2013

John G. Levi
Chairman

Victor M. Fortuno
*Vice President, General Counsel
& Corporate Secretary*

**Permission to accept compensation
for outside employment**

Resolution 2013-XXX



BOARD OF DIRECTORS

Resolution
REGARDING CORPORATE OFFICER’S REQUEST
FOR PERMISSION TO ACCEPT COMPENSATION
FOR GRADUATE SCHOOL TEACHING ASSIGNMENT

WHEREAS the Legal Services Corporation Act of 1974, as amended, and the Corporation’s Bylaws permit officers of the Corporation, during the course of their employment by the Corporation, to receive compensation for services from a source other than the Corporation only if the receipt of such compensation is authorized by the Board of Directors; and

WHEREAS the Bylaws of the Corporation and the employment terms of Ms. Jennings’ position provide that she “may not receive any salary or other compensation for services from any sources other than the Corporation during her period of employment by the Corporation, except as authorized by the Board”; and

WHEREAS Ms. Jennings has disclosed to the President her interest in accepting an adjunct teaching assignment¹ and has given the required assurances that any work in that capacity would be performed by her on her own time and would not involve LSC resources; and

WHEREAS Ms. Jennings has informed the Board and President that compensation of \$3,250 would be provided to her for such services; and

WHEREAS the Board has determined that the provision of said services and such compensation are not inconsistent with Ms. Jennings’ duties with and obligations as an officer of the Corporation;

NOW, THEREFORE, BE IT RESOLVED that, on the basis of the aforementioned disclosures to the Board, Lynn A. Jennings, Vice President for Grants Management, is authorized to accept the adjunct teaching position, perform the services incident to that position and receive the compensation proposed for those services.

Adopted by the Board of Directors
on January 26, 2013

John G. Levi
Chairman

Victor M. Fortuno
Vice President for Legal Affairs,
General Counsel & Corporate Secretary

¹ The position is at Georgetown University’s Public Policy Institute to teach a half-semester module entitled “Introduction to Emergency Management.”



BOARD OF DIRECTORS

TO: The Legal Services Corporation Board of Directors

FROM: Lynn Jennings, Vice President for Grants Managements

SUBJECT: Request for permission to receive outside compensation for graduate school teaching assignment

DATE: January 11, 2013

I have been asked by Georgetown University's Public Policy Institute ("GPPI") to serve as an affiliated faculty member to teach a graduate-level course entitled "Introduction to Emergency Management." I taught this class at GPPI in the spring of 2012. The course will examine the history of emergency management and its evolution in the post-9/11 and Hurricane Katrina era. The class will review the principles and practices of emergency management at the local, state, and national levels and will explore the concepts of prevention, protection, preparedness, response, recovery and mitigation.

The course is scheduled for seven, 2.5 hour sessions on Tuesday evenings from 6:30 p.m. to 9:00 p.m. in March and April. Total compensation for my services is \$3,250, which I use to help defray the expense of travel for guest speakers.

Thank you for your consideration.

COURSE SYLLABUS INTRODUCTION TO EMERGENCY MANAGEMENT

I. GENERAL COURSE INFORMATION:

PPOL 811: INTRODUCTION TO EMERGENCY MANAGEMENT

Georgetown University – Healy 104

Thursdays: 6:30 p.m. – 9:00 p.m.

March 1, 15, 22, 29; April 12, 19, 26

II. COURSE OVERVIEW AND OBJECTIVES:

- A. Overview.** Emergency Management today is an integral component of the nation's homeland security enterprise. This introductory course will explore the history of emergency management and its evolution in the post-9/11 and Hurricane Katrina era. The course will review the principles and practices of emergency management at the local, state, and national levels and will explore the concepts of prevention, protection, preparedness, response, recovery and mitigation.
- B. Course Objectives.** A student who successfully completes this course should be able to:
- Discuss the history of emergency management and why it has evolved into the current approach to managing disasters;
 - Discuss the role of individuals, government and private sector actors, as well as their relationships with one another, in emergency management;
 - Explain the all hazard emergency management process that integrates the resources of local, State, and Federal governments and voluntary and business assets;
 - Discuss the key components in a comprehensive emergency management program; and
 - Recognize future challenges associated with emergency management.

III. COURSE INSTRUCTOR:

Lynn Jennings

ljennings@bigcityem.org

1250 Connecticut Ave., N.W., Ste. 200

Washington, D.C. 20036

Office Hours: Fridays, 10:00 a.m. to 11:30 a.m.

or before class by appointment.

Phone: 202.261.6543

Lynn Jennings serves as the Executive Director of Big City Emergency Managers, Inc. (BCEM). Since 2005, the Big City Emergency Managers has brought together the directors of emergency management from the largest, most at-risk cities from across the country to foster the development and growth of robust and nimble emergency management operations in the nation's largest, most at-risk metropolitan jurisdictions so that the country

is better positioned to prevent, protect against, mitigate, prepare for, respond to and recover from major incidents and catastrophic emergencies.

The Group is now comprised of 15 jurisdictions, including all Tier I Urban Area Security Initiative (UASI) areas, representing – Boston, Chicago, Dallas, Denver, Harris County, TX, Houston, Jersey City/Newark, Los Angeles, Miami-Dade County, New York City, Philadelphia, San Diego County, San Francisco, Seattle, Washington, DC. Collectively, the Group represents about 30 per cent of the nation’s population and 85 per cent of the UASI grant funds that FEMA awards annually

Previously, Lynn served as Executive Vice President at the Council for Excellence in Government (Council) where she directed the Council’s homeland security and emergency preparedness initiatives. In that capacity, she oversaw the development and implementation of a Public Readiness Index (PRI) to measure individual and family readiness. She also led the various leadership and performance programs at the Council including the Excellence in Government and DHS Fellows programs. In this role, she was responsible for the programming and execution of programs that graduate more than 220 Federal managers each year.

Prior to joining the Council, she served as Director of Strategic Initiatives, including Homeland Security, at the CNA Corporation, a non-profit corporation that provides high-level, in-depth research and analysis to inform public sector decision makers in a number of important areas including homeland security.

Lynn has extensive public sector experience and has served in a number of senior-level positions in the federal government, including Acting Assistant Secretary for Policy in the U.S. Department of Labor, General Counsel of the U.S. Merit Systems Protection Board, and Chief of Staff to the Chief Operating Officer of the U.S. Agency for International Development. Lynn also has experience in the White House’s Office of Presidential Personnel as a Search Manager for key presidential appointments in both national security and domestic policy.

She earned a bachelor’s degree, *cum laude* with honors, in political science from the University of Rochester and a J.D. from the Columbus School of Law, the Catholic University of America.

IV. COURSE REQUIREMENTS AND EXPECTATIONS:

- A. Overview.** Course requirements include: reading weekly course materials, participating actively in class discussions, and completing a case study and memorandum to the National Security Advisor. There will be further discussion in class about assignments and due dates.

Please note that class participation is essential and will represent a significant percentage of the final grade. Please complete all readings before class and be prepared to discuss. Students anticipating an absence or should contact the instructor in advance or provide notification as soon as possible

This syllabus may be modified at the instructor's discretion as necessary to meet the needs of the course.

B. Grading

- Class preparation and participation – 30%
- Case Study – 35%
- Memorandum to the National Security Advisor – 35%

V. ASSIGNMENTS:

- A. Case Study.** This course focuses on the changes that have occurred in the nation's emergency management system in the post-9/11 and post-Katrina era. Please prepare a 10-page case study analyzing the response and recovery of a smaller scale disaster that's occurred in the United States in the last 10 years. The analysis should include:
- A brief description of the disaster and the emergency management effort;
 - The nature of the disaster (i.e., natural or technological/manmade);
 - The impact of the disaster in terms of the number of human casualties and amount of property loss;
 - The governmental entities having jurisdictional responsibility and involved in the disaster response and recovery effort;
 - The involvement of nonprofit and for-profit actors in the response and recovery effort;
 - The major policy issues raised—e.g., lack of mitigation effort, inadequacy of preparedness, response failure, recovery problems; and
 - What disaster planning the community had done prior to the incident?

Due Date: No later than April 19, 2012 at 11:59 p.m.

- B. Memorandum to the National Security Advisor.** It is January 20, 2013, and you are a member of the National Security Staff and either President Obama has been re-elected or a new administration has just assumed power. Prepare a 12 - 15 page memorandum outlining the challenges and opportunities the nation's emergency management system currently faces. Please detail the short-, mid- and long-term priorities that leadership should address.

Due Date: No later than April 26, 2012 at 11:59 p.m.

Papers are to be written in the APA style, with one-inch side, top and bottom margins. You must use either Times New Roman or Arial type, in a 12-point font. Please submit papers to the instructor's e-mail address indicated above.

VI. RESOURCES AND READINGS

- A. Textbooks.** The following readings will be used in class:

- Rutherford H. Platt, *Disasters and Democracy, The Politics of Extreme Natural Events*, Island Press, (1999).
- George D. Haddow, Jane A. Bullock, Damon P. Coppola, *Introduction to Emergency Management*, 4th ed., Butterworth-Heinemann, (2011).

B. Government Documents

- Homeland Security Presidential Directive – 8.
<http://www.acq.osd.mil/ncbdp/nm/docs/Relevant%20Docs/hspd-8.pdf>
- National Disaster Recovery Framework,
<http://www.fema.gov/pdf/recoveryframework/ndrf.pdf>
- National Incident Management System,
http://www.fema.gov/pdf/emergency/nims/NIMS_core.pdf
- National Preparedness Goal. <http://www.fema.gov/pdf/prepared/npg.pdf>
- National Response Framework. <http://www.fema.gov/pdf/emergency/nrf/nrf-core.pdf>
- Presidential Policy Directive 8. <http://www.dhs.gov/xlibrary/assets/presidential-policy-directive-8-national-preparedness.pdf>
- Strategic National Risk Assessment. <http://www.dhs.gov/xlibrary/assets/rma-strategic-national-risk-assessment-ppd8.pdf>
- GAO Report, GAO-02-621T *National Preparedness Integration of Federal, State, Local, and Private Sector Efforts is Critical to an Effective National Strategy for Homeland Security* <http://www.gao.gov>

C. Other Sources:

- Video Remarks by the Honorable Craig Fugate, Administration, U.S. Federal Emergency Management Agency, U.S. Department of Homeland Security, <http://www.c-spanvideo.org/program/301070-1>, August 16, 2011
- Herman B. “Dutch” Leonard and Arnold M. Howitt. 2010. Advance Recovery and the Development of Resilient Organisations and Societies. In Simon Woodward (Ed.), *Integrative Risk Management: Advanced Disaster Recovery* (pp. 45-58). Zurich: Swiss Reinsurance Company Ltd.
http://www.hks.harvard.edu/var/ezp_site/storage/fckeditor/file/pdfs/centers-programs/programs/crisis-leadership/Risk_Dialogue_Ch%202.pdf

COURSE SCHEDULE

MARCH 1, 2012

Session 1: Introductions, Expectations and a Discussion Regarding the History of Emergency Management in the U.S.

- Rutherford H. Platt, *Disasters and Democracy, The Politics of Extreme Natural Events*, Island Press, (1999).
 - Introduction, pp. 1-8.
 - Part I, Chapter 1, Shouldering the Burden, 9-46.
- George D. Haddow, Jane A. Bullock, Damon P. Coppola, *Introduction to Emergency Management*, 4th ed., Butterworth-Heinemann, (2011).
 - Chapter 1: The Historical Context of Emergency Management, pp. 1-27.
 - Chapter 9: Emergency Management and the Terrorist Threat, pp. 297 – 343.

MARCH 15, 2012

Session 2: Building a National Preparedness System: Introduction to the National Preparedness Goal and a Reset of the of the Emergency Management Enterprise.

- Homeland Security Presidential Directive – 8.
<http://www.acq.osd.mil/ncbdp/nm/docs/Relevant%20Docs/hspd-8.pdf>
- Presidential Policy Directive 8. <http://www.dhs.gov/xlibrary/assets/presidential-policy-directive-8-national-preparedness.pdf>
- National Preparedness Goal. <http://www.fema.gov/pdf/prepared/npg.pdf>
- George D. Haddow, Jane A. Bullock, Damon P. Coppola, *Introduction to Emergency Management*, 4th ed., Butterworth-Heinemann, (2011).
 - Chapter 2: Natural and Technological Hazards and Risk Assessment, pp. 29 – 67.
- Video, Remarks by the Honorable Craig Fugate, Administration, U.S. Federal Emergency Management Agency, U.S. Department of Homeland Security, <http://www.c-spanvideo.org/program/301070-1>, August 16, 2011

MARCH 22, 2012

Session 3: Preparedness

- George D. Haddow, Jane A. Bullock, Damon P. Coppola, *Introduction to Emergency Management*, 4th ed., Butterworth-Heinemann, (2011).
 - Chapter 4: The Disciplines of Emergency Management: Preparedness, pp. 97 – 131.

MARCH 29, 2012

Session 4: Response – Part 1

- National Response Framework. <http://www.fema.gov/pdf/emergency/nrf/nrf-core.pdf>
 - Annexes are not assigned.
- National Incident Management System, http://www.fema.gov/pdf/emergency/nims/NIMS_core.pdf
 - Appendix B – Incident Command System – ONLY
- George D. Haddow, Jane A. Bullock, Damon P. Coppola, *Introduction to Emergency Management*, 4th ed., Butterworth-Heinemann, (2011).
 - Chapter 6: The Disciplines of Emergency Management: Response, pp. 165 – 212.

APRIL 12, 2012

Session 5: Response – Part 2

- George D. Haddow, Jane A. Bullock, Damon P. Coppola, *Introduction to Emergency Management*, 4th ed., Butterworth-Heinemann, (2011).
 - Chapter 5: The Disciplines of Emergency Management: Communications, pp. 133 – 167.
- For additional information regarding crisis communications, please see: <http://www.psandman.com/>

APRIL 19, 2012

Session 6: Recovery

- George D. Haddow, Jane A. Bullock, Damon P. Coppola, *Introduction to Emergency Management*, 4th ed., Butterworth-Heinemann, (2011).
 - Chapter 6: The Disciplines of Emergency Management: Recovery, pp. 213 – 250.
- National Disaster Recovery Framework, <http://www.fema.gov/pdf/recoveryframework/ndrf.pdf>, pp. 1-76.
- Herman B. “Dutch” Leonard and Arnold M. Howitt. 2010. Advance Recovery and the Development of Resilient Organisations and Societies. In Simon Woodward (Ed.), *Integrative Risk Management: Advanced Disaster Recovery* (pp. 45-58). Zurich: Swiss Reinsurance Company Ltd. http://www.hks.harvard.edu/var/ezp_site/storage/fckeditor/file/pdfs/centers-programs/programs/crisis-leadership/Risk_Dialogue_Ch%202.pdf

APRIL 26, 2012

Session 7: Mitigation and Wrap Up

- George D. Haddow, Jane A. Bullock, Damon P. Coppola, *Introduction to Emergency Management*, 4th ed., Butterworth-Heinemann, (2011).
 - Chapter 3: The Disciplines of Emergency Management: Mitigation, pp. 69 – 95.
 - Chapter 10: The Future of Emergency Management, pp. 341-354.

RECOMMENDED READING AND OTHER RESOURCES

Dennis Mileti, *Disasters by Design: A Reassessment of Natural Hazards in the United States*, Washington, D.C.: Joseph Henry Press (1999).

National Academy of Public Administration, *Building an Emergency Management System to Meet People's Needs in Natural and Manmade Disasters* (Washington, D.C.: NAPA, February 1993).

E.L. Quarantelli, ed., *What is a Disaster? Perspectives on the Question*. London; Routledge (1998).

Irwin Redlener, *Americans at Risk: Why We Are Not Prepared for Megadisasters and What We Can Do*, Deckle Edge, (2006).

Claire B. Rubin, ed., *Emergency Management: The American Experience 1900-2005*, Public Entity Risk Institute, (2007).

Richard T. Sylves and William H. Waugh, Jr., eds. *Disaster Management in the U.S. and Canada*. Springfield, Ill.: Charles C. Thomas, Publisher, Ltd. (1996).

William H. Waugh, Jr. and Kathleen Tierney, eds., *Emergency Management: Principles and Practice for Local Government 2nd Edition*, International City Management Association, (2007).

<http://www.fema.gov> - for basic information on the federal emergency management system, reports, information sources, status reports on disasters, and connections to state and local emergency management information.

<http://www.colorado.edu/hazards> - for information regarding specific hazards, full texts of papers and information sources.