LEGAL SERVICES CORPORATION

Board of Directors Meeting

October 20-22, 2013

Location:

Renaissance Pittsburgh Hotel
107 Sixth Street
Pittsburgh, Pennsylvania 15222

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I. Schedule

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS
MEETING SCHEDULE
OCTOBER 20-22, 2013

Meeting Location:
Renaissance Pittsburgh Hotel
107 Sixth Street
Pittsburgh, Pennsylvania, 15222
Phone: (412) 992-2031

SUNDAY, OCTOBER 20, 2013			
Start	End	Meeting/Event	Location
1:30pm	2:45pm	Operations & Regulations Committee	Symphony AB Renaissance Hotel
2:45pm	3:45pm	Governance & Performance Review Committee	Symphony AB Renaissance Hotel
3:45 pm	4:45pm	Institutional Advancement Committee	Symphony AB Renaissance Hotel
4:45 pm	6:15pm	Audit Committee	Symphony AB Renaissance Hotel

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS
MEETING SCHEDULE
OCTOBER 20-22, 2013

Meeting Location:
Renaissance Pittsburgh Hotel
107 Sixth Street
Pittsburgh, Pennsylvania, 15222
Phone: (412) 992-2031

MONDAY, OCTOBER 21, 2013			
Start	**End**	**Meeting/Event**	**Location**
9:00am	**12:00pm**	**Introductory Remarks** *John G. Levi*, Chairman, Legal Services Corporation Board of Directors *Chief Justice Ronald D. Castille*, Pennsylvania Supreme Court **Panel 1: The Importance of Access to Justice to the Judiciary** *Chief Justice Brent D. Benjamin*, Supreme Court of Appeals of West Virginia *Chief Justice Ronald D. Castille*, Pennsylvania Supreme Court *Chief Judge Ben C. Clyburn*, District Court of Maryland *Magistrate Judge Maureen P. Kelly*, United States District Court, Western District of Pennsylvania *Dean Martha Minow*, Harvard Law School and LSC Board Vice Chair *(Moderator)* **Panel 2: Partnerships in Promoting Pro Bono Activity** *Dottie Alke*, Vice President and Senior Counsel at CBS Corporation *Lori A. Chumbler*, Associate General Counsel, Legal Administration & External Relations, Walmart *Stephen Dickinson*, Executive Director, Central Virginia Legal Aid Society, Inc. *John G. Finneran, Jr.*, General Counsel & Corporate Secretary, Capital One *Barbara Griffin*, Pro Bono Coordinator, Allegheny County Bar Foundation *Kathryn M. Kenyon*, Pietragallo Gordon Alfano Bosick & Raspanti, LLP *Robert V. Racunas*, Executive Director, Neighborhood Legal Services Association *Lee Richardson*, Executive Director, Legal Aid of Arkansas *James J. Sandman*, President, Legal Services Corporation *(Moderator)*	**Pennsylvania Supreme Court Courtroom** **801 City-County Building** **414 Grant Street**

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS
MEETING SCHEDULE
OCTOBER 20-22, 2013

Meeting Location:
Renaissance Pittsburgh Hotel
107 Sixth Street
Pittsburgh, Pennsylvania, 15222
Phone: (412) 992-2031

MONDAY, OCTOBER 21, 2013			
2:00 pm	**3:15 pm**	**Presentation by LSC-Funded Programs** *Robert M. Brenner*, Executive Director, Southwestern Pennsylvania Legal Services, Inc. *Samuel W. Milkes,* Executive Director, Pennsylvania Legal Aid Network, Inc. *Robert V. Racunas*, Executive Director, Neighborhood Legal Services Association *Cynthia A. Sheehan*, Executive Director, Laurel Legal Services, Inc.	**Symphony AB** **Renaissance Hotel**
3:30 pm	**5:15 pm**	**Promotion & Provision Committee** **Performance Criteria Panel Presentation** *Katia Garrett,* Executive Director, DC Bar Foundation *Alex Gulotta*, Executive Director, Legal Aid Justice Center *Yvonne Mariajimenez,* Deputy Director, Neighborhood Legal Services of Los Angeles County *Janet LaBella*, Director Office of Program Performance, Legal Services Corporation *(Moderator)*	**Symphony AB** **Renaissance Hotel**
5:30pm	**7:00 pm**	**Pro Bono Awards Reception** *The Honorable Chaka Fattah*, U.S. Representative, 2nd District of Pennsylvania *The Honorable Dick Thornburgh*, K&L Gates, former Pennsylvania Governor & United States Attorney General	**K&L Gates LLP** **K&L Gates Center** **210 Sixth Avenue**

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS
MEETING SCHEDULE
OCTOBER 20-22, 2013

Meeting Location:
Renaissance Pittsburgh Hotel
107 Sixth Street
Pittsburgh, Pennsylvania, 15222
Phone: (412) 992-2031

TUESDAY, MONTH OCTOBER 22, 2013			
Start	End	Meeting/Event	Location
8:30 am	9:45am	Finance Committee	Symphony AB Renaissance Hotel
10:00am	12:00pm	OPEN Board Meeting	Symphony AB Renaissance Hotel
12:30pm	2:00 pm	CLOSED Board Meeting	Symphony AB Renaissance Hotel

II. Operations & Regulations Committee

OPERATIONS & REGULATIONS COMMITTEE

October 20, 2013

Agenda

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's meeting on July 22, 2013
3. Update on rulemakings for 45 CFR Part 1614—Private Attorney Involvement and 45 CFR Part 1626—Restrictions on Legal Assistance to Aliens
   - Stefanie Davis, Assistant General Counsel
4. Consider and act on 45 CFR Part 1613— Restrictions on Legal Assistance with Respect to Criminal Proceedings and the Tribal Law and Order Act of 2010, Title II of Public Law 111-211
   a) Rulemaking Options Paper (ROP) and Notice of Proposed Rulemaking (NPRM) regarding updates to Part 1613
      - Stefanie Davis, Assistant General Counsel
   b) Public comment
5. Briefing on updating population data for grants serving migratory and other agricultural workers
   - Ron Flagg, General Counsel
   - Bristow Hardin, Office of Program Performance (by telephone)
6. Discussion of plans for the Committee's annual review of LSC's implementation of the Strategic Plan 2012-2016, as provided by section VI (3) of the Committee Charter
   - Jim Sandman, LSC President
7. Other public comment
8. Consider and act on other business
9. Consider and act on adjournment of meeting

Draft Minutes of July 22, 2013 Meeting

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

Monday, July 22, 2013

Committee Chairman Charles N.W Keckler convened an open session meeting of the Legal Services Corporation's ("LSC") Operations and Regulations Committee ("the Committee") at 1:56 p.m. on Monday, July 22, 2013. The meeting was held at the Warwick Hotel, 1776 Grant Street, Denver, Colorado 80203.

The following Committee members were present:
Charles N.W. Keckler, Chairman
Robert J. Grey, Jr.
Harry J.F. Korrell, III
Laurie I. Mikva
John G. Levi, *ex officio*

Other Board members present:
Sharon L. Browne
Victor B. Maddox
Martha L. Minow (by telephone)
Father Pius Pietrzyk
Julie A. Reiskin
Gloria Valencia-Weber

Also attending were:

James J. Sandman	President
Lynn Jennings	Vice President for Grants Management
Richard L. Sloane	Chief of Staff and Special Assistant to the President
Rebecca Fertig	Special Assistant to the President
Ronald S. Flagg	Vice President for Legal Affairs, General Counsel, and Corporate Secretary
Mark Freedman	Senior Assistant General Counsel, Office of Legal Affairs (OLA)
Charles Martel	Assistant General Counsel, OLA (by telephone)
Atitaya Rok	Staff Attorney, OLA (by telephone)
David L. Richardson	Comptroller and Treasurer
Carol Bergman	Director, Office of Government Relations and Public Affairs (GRPA)
Carl Rauscher	Director of Media Relations, GRPA
Jeffrey E. Schanz	Inspector General
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the Inspector General (OIG)
Thomas Coogan	Assistant Inspector General for Investigations, OIG
Lora M. Rath	Director, Office of Compliance and Enforcement (OCE)
Herbert S. Garten	Non-Director Member, Institutional Advancement Committee

Frank B. Strickland	Non-Director Member, Institutional Advancement Committee
Howard Belodoff	Associate Director and Indian Law Unit Director, Idaho Legal Aid Services, Inc.
John Dossett	General Counsel, National Congress of American Indians
Troy Eid	Chair, Indian Law & Order Commission
Carol Goldberg	Commissioner, Indian Law & Order Commission
Tracy Toulou	Director, Office of Tribal Justice, U.S. Department of Justice
Colline Keely	Executive Director, Colorado Legal Services
Anne Milne	Executive Director, Utah Legal Services
Justice Allison H. Eid	Colorado Supreme Court
Chuck Greenfield	National Legal Aid and Defenders Association (NLADA)
Don Saunders	NLADA

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

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

MOTION

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

VOTE

The motion passed by voice vote.

MOTION

Ms. Mikva moved to approve the minutes of the Committee meetings of September 20, 2012 and April 14, 2013. Mr. Korrell seconded the motion.

VOTE

The motion passed by voice vote.

Professor Valencia-Weber introduced and moderated the panel discussion on 45 CFR Part 1613 - restrictions on legal assistance with respect to criminal proceedings - and the Tribal Law and Order Act of 2010 ("TLOA"). She introduced the panel members: Howard Belodoff, John Dossett, Troy Eid, Carole Goldberg, and Tracy Toulou. The panel discussed the effects of the TLOA on LSC recipients serving tribal communities and answered Committee members' questions. Committee Chairman Keckler invited public comments on the topic and received none.

Committee Chairman Keckler then introduced the proposed rulemaking to update 45 CFR Part 1626, the LSC regulation regarding restrictions on legal assistance to aliens, to

conform to existing statutory authorities. Mr. Freedman presented the rulemaking options paper and the Notice of Proposed Rulemaking, and he answered Committee members' questions. Committee Chairman Keckler invited public comments on the Part 1626 rulemaking. Mr. Greenfield expressed his support on the proposed rule and he offered suggestions for improvement.

MOTION

Committee Chairman Keckler moved to approve publication of the Notice of Proposed Rulemaking, as amended to reflect the substance of the Committee's conversation. Mr. Grey seconded the motion.

VOTE

The motion passed by voice vote.

Committee Chairman Keckler invited public comment and received none.

There was no other business to consider.

MOTION

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

VOTE

The motion passed by voice vote.

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

Rulemaking Options Paper and Draft Rule
Part 1613

Legal Services Corporation
America's Partner For Equal Justice

OFFICE OF LEGAL AFFAIRS

RULEMAKING OPTIONS PAPER

TO: Operations and Regulations Committee

FROM: Ronald S. Flagg, General Counsel and Vice President for Legal Affairs
Stefanie K. Davis, Assistant General Counsel

DATE: October 8, 2013

SUBJECT: Rulemaking Options Paper — 45 C.F.R. Part 1613: Restrictions on Legal Assistance with Respect to Criminal Proceedings

This Rulemaking Options Paper (ROP) sets forth options and recommendations regarding possible revisions to Part 1613 of the LSC regulations regarding criminal representation by recipients of grants from the Legal Services Corporation (LSC) to implement provisions of the Tribal Law and Order Act of 2010 (TLOA). The TLOA amended the Legal Services Corporation Act (LSC Act) to allow recipients to use LSC funds to represent eligible persons charged with not only misdemeanors, but also felonies, in tribal courts. This ROP summarizes comments received by LSC during a panel presentation on the topic hosted by the Operations & Regulations Committee (the Committee) on July 22, 2013, and in response to a Request for Information (RFI) published in the *Federal Register* on March 10, 2013. The ROP discusses issues related to the expanded use of LSC funds, such as the protections available to recipients to decline court appointments in criminal matters in tribal courts. Finally, the ROP presents three options to address the issues raised by the TLOA amendments for the Committee's consideration.

I. Summary of Management Recommendation

Management recommends that the Committee pursue Option 3, which proposes amendments to all sections of 45 C.F.R. Part 1613. This option, as explained more fully below, brings Part 1613 into alignment with the amended provisions of the LSC Act. It also makes clear that recipients can accept appointments to represent individuals charged with criminal offenses only if the recipient determines that representation will not impair the recipient's primary responsibility to provide civil legal services to eligible clients.

II. Background

The LSC Act generally prohibits the use of LSC funds to provide legal representation in criminal cases. 42 U.S.C. § 2996f(b). Prior to 2010, the LSC Act provided an exception for misdemeanors or lesser offenses in tribal courts. Pub. L. 95-222, § 10 (Dec. 28, 1977). All other

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representation in criminal cases, including for offenses greater than misdemeanors in tribal courts, required a court appointment, and a determination by the recipient that representation would be consistent with the recipient's primary responsibility to provide legal assistance to eligible clients in civil matters, for a recipient to handle the case with LSC funds. 45 C.F.R. § 1613.4(a). The TLOA amended section 1007 of the LSC Act, 42 U.S.C. § 2996f(b), to permit the use of LSC funds by recipients to represent eligible persons in any and all criminal proceedings in tribal courts. Pub. L. 111-211, § 234(d) (Jul. 29, 2010). The TLOA also made two major changes to the jurisdiction of tribal courts. First, it authorized tribal courts to impose longer sentences, raising the maximum duration from up to one year to a total of nine years. Pub. L. 111-211, § 234(a). Second, it required tribes exercising the expanded sentencing authority to, "at the expense of the tribal government, provide an indigent defendant the assistance of a defense attorney." Pub. L. 111-211, § 234(c)(2).

On November 8, 2012, LSC issued Program Letter 12-3 to all recipients entitled "Criminal Proceedings in Tribal Courts." In that letter, Management informed recipients of the statutory change and stated that, pending action by the Board regarding Part 1613, recipients could use LSC funds to undertake any criminal matters in tribal courts on behalf of eligible persons and include such cases in their required Case Services Reports (CSR Reports) to LSC.

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 1976. 41 Fed. Reg. 38506 (Sep. 10, 1976). The regulations implement the original version of the statute, enacted in 1974, by prohibiting the use of LSC funds for criminal representation. The original regulation included an exception for misdemeanors or lesser offenses in tribal courts, which Congress added to the LSC Act in 1977. Pub. L. 95-222, § 10 (Dec. 28, 1977). Those original regulations remain in effect at present and will remain so unless the Board amends them.

In sum, the new statutory language permits representation in tribal courts for more serious criminal offenses, but does not require any recipient to undertake such representation. Unless the regulations are amended, they will appear to be narrower than the LSC Act. Such apparent inconsistency will, at minimum, be confusing to grantees about the types of tribal criminal cases in which they can represent eligible individuals. The regulations will also be inconsistent with the 2013 program letter permitting LSC funds to be used for representation in tribal criminal cases. Management's decision is only effective, however, until the Board decides whether to amend the regulation and such decision takes effect, either through withdrawal of Program Letter 12-3 or through the issuance of a final rule.

Should the Board decide to align the regulations with the new statutory authorization, it may also want to consider conforming changes to the sections of the regulations regarding the circumstances under which recipients may decline court appointments, as discussed below.

A. Relevant Statutory Provisions

Prior to the enactment of the TLOA, section 1007 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.

Pub. L. 95-222, § 10 (Dec. 28, 1977) (emphasis added).

As a result of the TLOA, Section 1007(b)(2) of the LSC Act now states:

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

42 U.S.C. § 2996f(b)(2) (emphasis added).

Section 1006(b)(3) of the LSC Act prohibits the Corporation from interfering with any recipient attorney's duties to carry out professional responsibilities to his client or from any jurisdiction's authority to enforce standards of professional responsibility with respect to recipient attorneys.

> (3) The Corporation shall not, under any provision of this title, interfere with any attorney in carrying out his professional responsibilities to his client as established in the Canons of Ethics and the Code of Professional Responsibility of the American Bar Association (referred to collectively in this title as "professional responsibilities") or abrogate as to attorneys in programs assisted under this title the authority of a State or other jurisdiction to enforce the standards of professional responsibility generally applicable to attorneys in such jurisdiction. The Corporation shall ensure that activities under this title are carried out in a manner consistent with attorneys' professional responsibilities.

42 U.S.C. § 2996e(b)(3).

As will be discussed below, LSC has interpreted this requirement to authorize recipients to accept court appointments in criminal cases, even though representation in such cases is otherwise prohibited by the LSC Act.

B. Regulatory Restrictions

LSC adopted regulations in 1976 implementing the statutory restriction on the use of LSC funds for criminal representations. First, the regulations prohibited LSC funds from being "used to provide legal assistance with respect to a criminal proceeding, unless authorized by this part" (45 C.F.R. § 1613.3) and expressly excluded misdemeanors and lesser offenses in tribal

courts from the definition of "criminal proceeding" for purposes of the prohibition. 41 Fed. Reg. 38506, 38507 (Sep. 10, 1976).

> . . . A misdemeanor or lesser offense tried in an Indian tribal court is not a "criminal proceeding."

45 C.F.R. § 1613.2.

Next, Part 1613 identified limited circumstances under which an LSC recipient staff attorney was authorized to provide legal assistance in criminal proceedings. These limited circumstances must be the result of a court appointment made according to a statute or a court rule of uniform applicability to all attorneys or a requirement of professional responsibility:

> 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.

45 C.F.R. § 1613.4.

C. Summary of Comments

LSC sought and received comments about the need to amend Part 1613 in two forms: 1) from a panel of experts appearing at the July 22, 2013 Committee meeting; and 2) in response to a RFI published in the *Federal Register* on May 10, 2013.

1. Summary of Panel Comments

The Committee invited five experts in Indian law to speak about the effects of the TLOA and the Violence Against Women Reauthorization Act of 2013 (2013 VAWA)[1] on LSC recipients serving tribal communities. The panel was moderated by Board member Gloria Valencia-Weber. The panelists were:

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

[1] 2013 VAWA's primary effect with respect to tribal courts was to authorize such courts to exercise criminal jurisdiction over domestic violence cases. Pub.L. 113-4, § 904, 127 Stat. 54, 120-122 (Mar. 7, 2013).

- John Dossett, General Counsel, National Congress of American Indians
- Troy Eid, Chair, Indian Law and Order Commission
- Carole Goldberg, Commissioner, Indian Law and Order Commission
- Tracy Toulou, Director, Office of Tribal Justice, U.S. Department of Justice.

Panelists discussed the implications of both expanded criminal sentencing under the TLOA and the newly created special jurisdiction over domestic violence cases for tribal courts by the 2013 VAWA.

Commentary centered on two main issues: the limited availability of resources to provide representation in criminal cases, and the political and cultural challenges in representing defendants charged with domestic violence, particularly non-Indian defendants. Mr. Belodoff expressed the view that, at the current time, LSC's Native American grants are too small to meet the existing needs of tribal communities. Clients tend to live far from the recipient's offices and from each other, requiring attorneys to travel long distances and incur expenses for gas and lodging. The costs associated with this travel and the limited funding available to cover them make it difficult to attend frequent court hearings. (July 22, 2013 Committee Transcript (Transcript) at 54, 63.) For this reason, he did not see recipients of LSC's Native American grants undertaking widespread representation under TLOA. (Transcript at 54.) His preferred approach is for LSC to allow flexibility for recipients of LSC's Native American funds to take on this representation if they determine it is a priority, but not to require recipients to do it. (Transcript at 55.)

In a similar vein, President Sandman raised a concern he had heard from recipients: that tribal courts would execute their responsibility to provide representation at tribal expense by simply appointing LSC-funded attorneys. (Transcript at 64-65.) Mr. Eid concurred with the concern and recommended that any amendments to the rule provide the flexibility that Mr. Belodoff preferred, but at the same time protect recipients from having to accept compulsory appointments if it would impair their primary mission. (Transcript at 65-66, 68). Ms. Goldberg followed up on a related question by opining that LSC-funded recipients, as the attorneys working in the tribal communities and conversant with tribal cultures, are better equipped to undertake expanded criminal representation than attorneys with expertise in criminal law, but with no background in Indian law or tribal communities. (Transcript at 69-71.)

With respect to the policy of representing defendants in domestic violence cases, panelists generally agreed that doing so would raise thorny issues of parity among victims and defendants, as well as Indian and non-Indian defendants. Two panelists noted that their organizations approach domestic violence representation from the victim's perspective and would be reluctant to represent the defendant in a domestic violence case. (Transcript at 51 (Dossett), 55 (Belodoff).) Mr. Belodoff also expressed concern that representation of a defendant would prevent an LSC-funded recipient from representing the alleged victim in the case, thereby reducing the amount of assistance available to victims. (Transcript at 55). Similarly, the two panelists also stated opposition to using LSC Native American funds to represent non-Indian defendants in cases involving Indian victims. Their opposition arose out of both the potential use of LSC's Native American grant funds to represent non-Indian defendants, thereby reducing the amount of funding available to assist Indian victims, and the political need to ensure that if non-

Indian defendants had access to counsel, Indian victims would have access to counsel as well. (Transcript at 50 (Dossett), 56 (Belodoff).)

2. Summary of RFI Responses

LSC published an RFI regarding the restrictions on legal assistance with respect to criminal proceedings in tribal courts on May 10, 2013. 78 Fed. Reg. 27341 (May 10, 2013). The RFI asked commenters to answer questions about the impact of the TLOA and 2013 VAWA on criminal laws in tribal jurisdictions and on tribal appointments of defense counsel. Id. LSC received comments from the Coquille Indian Tribe, the Chickasaw Nation, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians (Lac Courte Oreilles Band), the prosecutor for the Goshute Indian Reservation, and Native American Indian Legal Services (NAILS).

According to their responses, the Coquille Indian Tribe does not exercise criminal jurisdiction, the prosecutor for the Goshute Indian Reservation indicated that she was not aware of any changes that the tribe would be making to its authority to hear and sentence criminal cases, the Chickasaw Nation was in the process of reviewing its criminal laws to determine whether they needed amending to be consistent with the TLOA and 2013 VAWA, and the Lac Courte Oreilles Band had received a grant to begin drafting a criminal code that would comply with TLOA and 2013 VAWA. Both of the tribes that are working on their criminal codes welcomed the opportunity for recipients to use LSC funds to represent defendants in all criminal matters, including domestic violence cases. The Chickasaw Nation invited LSC's involvement as it develops its domestic violence case policies and identified direct contracts between itself and LSC recipients as a way to ensure that it can fulfill its responsibility under TLOA to provide counsel to defendants in criminal cases. The Lac Courte Oreilles Band stated its opinion that representation of indigent defendants is hindered by a lack of funding and its belief that LSC funds could help provide proper representation for indigent defendants facing criminal charges in its tribal court.

NAILS's comments were substantially similar to those made by Mr. Belodoff and Mr. Eid at the July 22, 2013 Committee meeting. NAILS reiterated that LSC's Native American grant funding is limited and inadequate to meet existing needs, such that requiring grantees to provide counsel in criminal proceedings would exacerbate financial pressures. NAILS highlighted that the primary mission of recipients of LSC Native American grants is to provide high-quality civil legal services in matters that uniquely affect tribes, such as ensuring that the rights of tribes and tribal members guaranteed by the Indian Child Welfare Act are protected. NAILS also reiterated two additional concerns. The first was that a provider's representation of a defendant in a domestic violence case would create a conflict of interest that would prevent the provider from providing legal assistance to the victim. The second was that requiring representation of criminal defendants could mean using the limited LSC Native American funding to represent non-Indian defendants in tribal criminal proceedings. NAILS recommended that LSC amend Part 1613 to be consistent with the TLOA and allow grantees the option of representing defendants in tribal criminal proceedings, but not require such representation.

D. Court Appointments

Court appointment considerations arise because the current regulatory scheme creates narrow exceptions for recipients to use LSC funds for criminal representations. The first of the exceptions implements the explicit language in Section 1006(b)(3) of the LSC Act, which prohibits the Corporation from interfering with a recipient attorney's professional responsibilities to his client or to the jurisdiction in which he is licensed to practice. 42 U.S.C. § 2996e(b)(3). Under this provision of the LSC Act, together with its related regulatory provision, 45 C.F.R. § 1613.4(a), recipient staff attorneys may be required to undertake court-appointed criminal representations as part of their membership in the bar of that jurisdiction.

Section 1613.4(a) has been the subject of litigation in several jurisdictions in which trial courts appointed attorneys at LSC recipients in criminal cases over the Part 1613 objection of the recipients. Courts have overwhelmingly upheld recipients' declinations of criminal appointments under section 1613.4(a). See, e.g., Rehmann v. Maynard, 376 S.E.2d 169, 172 (W.Va. 1988); Central Florida Legal Servs v. Perry, 406 So. 2d 111, 113 (Fla. App. 1981); see also Mid-Missouri Legal Servs Corp. v. Kinder, 656 S.W. 2d 309, 312 (Mo. Ct. App. 1983) (making permanent prohibition on court's appointment of an LSC recipient attorney in a criminal proceeding based on statutory prohibition in 42 U.S.C. § 2996f(b)(2)). These cases generally cite to Sperry v. Florida, 373 U.S 379, 384 (1963), which held that state law must yield to federal law when state law is incompatible with federal law. Courts also tend to place considerable weight on the recipients' determinations that the appointment is not consistent with their duty to provide civil legal services. See, e.g., Rehmann, 376 S.E.2d at 173 ("We conclude . . . that a circuit judge is prohibited by 42 U.S.C.S. § 2996f(b)(2) (1974) and 45 C.F.R. § 1613.4 (1978) from appointing an attorney employed by a local legal services program that receives funds from the federal Legal Services Corporation to represent an indigent criminal defendant, where the local legal services program has made a formal policy determination that such criminal representation is inconsistent with its primary responsibility to provide legal assistance to eligible clients in civil matters."); Central Florida Legal Servs, 406 So. 2d at 113; Central Florida Legal Servs. v. Eastmoore, 517 F.Supp. 497, 500 (M.D. Fla. 1981) ("[T]he CFLS attorneys may not represent criminal defendants in light of the CFLS determination that it does not have sufficient resources to devote to a criminal proceeding.").

The second exception referenced in the regulation relates to those limited instances in which an attorney represents a client in a matter that gives rise to criminal charges. 45 C.F.R. § 1613.4(b) (allowing the use of LSC funds for representation in a criminal proceeding "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.").

Neither of the regulatory exceptions to the prohibition on using LSC funds for criminal representations currently extends to misdemeanors or lesser offenses in tribal courts because the definition of "criminal proceedings" excludes those cases.

III. Options

We have identified three options for the Committee's consideration: 1) leaving the current regulation in place, 2) amending the definition of "criminal proceeding" to conform to the statutory change, or 3) amending the entire regulation to address the changes to tribal criminal jurisdiction and to make conforming changes to the provision describing when recipients may accept appointments to represent individuals in criminal court. These options are discussed in detail below.

A. Option 1 –No Amendment to the Current Regulation

The Committee could elect to make no changes to the current regulation. Under this option, recipients would be precluded, as a matter of LSC policy, from representing individuals charged with felonies in tribal courts.

Under this option, LSC would leave in place the regulatory exemption from the definition of "criminal proceeding" for misdemeanors and other lesser offenses in tribal court. It would take no action to account for the expansion of the permissible uses of LSC funds to more serious tribal criminal matters as provided in the TLOA amendment to the LSC Act.

Should the Committee recommend, and the Board agree, to maintain the status quo, there would be an apparent inconsistency between the statute and the regulations. Recipients may be confused that the LSC Act now permits representation that is prohibited by the regulations. Although it is within LSC's authority to maintain a stricter limit on the use of its funds for criminal representation than Congress enacted, if the Committee and Board choose this option, we recommend that the Corporation affirmatively inform grantees that the preexisting restriction stands.

B. Option 2 – Amending 45 C.F.R. § 1613.2 Definition and 45 C.F.R. § 1613.3 Prohibition

This option would revise the definition of "Criminal Proceeding" to remove the reference to tribal courts and except representation in tribal criminal proceedings from the blanket prohibition on the use of LSC funds for any criminal representation.

1. Proposed Rule Text

§ 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. This prohibition does not apply to representation of a person charged with an offense in an Indian tribal court.

2. Considerations

Option 2 has two benefits. Removing the exception for tribal criminal proceedings from the definition of "criminal proceeding" altogether would allow the section 1613.4 limitations on representation in appointed criminal matters to apply to appointments by tribal courts in criminal matters. Additionally, Option 2 would make clear that representation of individuals charged with a criminal offense in tribal courts does not fall within the general prohibition against criminal representation. Both of these changes would provide recipients the flexibility to decide whether to provide legal assistance to defendants in tribal criminal courts.

C. Option 3 – Amending all subsections of 45 C.F.R. Part 1613

In light of the considerations discussed herein, the Committee may determine that all sections of Part 1613 should be revised.

1. Proposed Rule Text

§ 1613.1 Purpose.

This part is designed to ensure that Corporation funds will not be used to provide legal assistance with respect to criminal proceedings unless such assistance is authorized by this part or 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~~ any applicable statute or regulation.

§ 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~~ acceptance of the appointment will not impair 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.

§1613.5 Criminal representation in Indian tribal courts

(a) Legal assistance may be provided with Corporation funds to a person charged with a criminal offense in an Indian tribal court who is otherwise eligible.

(b) Legal assistance may be provided in a criminal proceeding in an Indian tribal court pursuant to a court appointment only if the appointment is (1) made under a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction, and (2) is authorized by the recipient after a determination that acceptance of the appointment would not impair the recipient's primary responsibility to provide civil legal assistance to eligible clients.

2. Considerations

Like Option 2, Option 3 removes the exception for misdemeanors or other lesser crimes in Indian tribal courts from the definition of "criminal proceeding" in section 1613.2. Option 3 also revises the prohibition on the use of LSC funds "with respect to a criminal proceeding" to a prohibition on the use of LSC funds "with respect to a criminal proceeding, unless authorized by any applicable statute or regulation." This means that if Congress amends the LSC Act or otherwise acts to change the types of criminal proceedings in which LSC funds can be used, no change to the regulations would be needed because the regulations would automatically capture the update. The Board would retain the discretion to amend the regulations if it did not wish to authorize criminal representation as broadly as authorized by statute. Finally, Option 3 creates a new section 1613.5, which contains all the provisions relevant to criminal proceedings in tribal court.

Option 3 has similar benefits to Option 2. Option 3 makes clear that criminal proceedings in tribal courts are "criminal proceedings" within the meaning of Part 1613. It also makes clear that LSC funds may be used to provide assistance to an individual charged with any crime in an Indian tribal court. Option 3 has the additional benefit of collecting all of the provisions specific to criminal representation in tribal courts in one section of the regulation.

Option 3 also proposes to change the standard for accepting a criminal appointment. The current standard, that the appointment be "consistent with" the recipient's primary responsibility to provide civil legal services, does not seem particularly useful or meaningful because criminal representation is by definition inconsistent with a responsibility to provide civil legal services. Changing the standard to impairment of the recipient's primary responsibility to provide civil legal assistance will allow recipients to consider the impact criminal appointments will have on

their ability to provide civil legal services at a more meaningful level because it contemplates that such appointments may have a measurable impact on a recipient's financial and human resources.

IV. Procedure

The process to be followed will depend on whether the Committee decides to amend Part 1613. Should the Committee recommend that the Board not amend the regulations, the Corporation has three options for giving give notice of its decision. It could issue a Program Letter rescinding Program Letter 12-3 and informing recipients that the Corporation has decided the current restrictions on criminal proceedings, including criminal proceedings in tribal court for cases more serious than misdemeanors, should remain in place. Alternatively, the Committee could recommend that the Board direct the staff to draft a Notice for publication in the *Federal Register* advising the public of its decision. The Notice could be published with or without opportunity for public comment. Finally, the Committee could decide on a hybrid approach, issuing a Program Letter rescinding Program Letter 12-3 and publishing notice of the Corporation's decision in the *Federal Register*.

If the Committee chooses to recommend substantive amendments to Part 1613, the options would be to proceed under (a) notice and comment rulemaking without workshops, (b) notice and comment rulemaking with workshops, or (c) negotiated rulemaking. The Committee would also need to determine the length of a comment period if proceeding under (a) or (b).

V. Management Recommendation

A. Substance

1. 1613.2 Definition

Management recommends that the definition of "criminal proceeding" be amended to remove the exception for misdemeanor or lesser crimes in Indian tribal courts. This change is recommended to make the definition consistent with the amendments made by the TLOA allowing recipients to use Corporation funds to represent persons charged with any crime in an Indian tribal court.

2. 1613.3 Prohibition

Management recommends that the phrase "any applicable statute or regulation" replace the "this part" to give the regulations flexibility to incorporate subsequent amendments to the criminal representation provision of the LSC Act or any other congressional actions that would affect recipients' ability to represent criminal defendants without requiring additional rulemaking. The Board would retain the discretion to amend the regulations if it did not wish to authorize criminal representation as broadly as authorized by the statute.

3. 1613.4 Authorized representation

Management recommends replacing the phrase "is consistent with the recipient's primary responsibility" with "will not impair the recipient's primary responsibility." This change will allow recipients to make decisions about accepting criminal appointments based on an assessment of the impact the appointment will have on the resources available to represent clients in civil matters.

4. 1613.5 Criminal representation in Indian tribal courts

Management recommends adding a new section to Part 1613 to locate all provisions applicable to criminal representation in Indian tribal courts in one place. Adding proposed section 1613.5 makes it easier for recipients who practice in tribal courts to locate the provisions relevant to them.

B. Process

The amendments to the substantive sections of Part 1613 should be developed and considered through notice and comment rulemaking (without workshops) as required by the LSC Act. Based on Management's recommendation, a draft NPRM for Option 3 is attached for the Committee's consideration. Depending on the Committee's reaction to the draft NPRM, the NPRM (or an alternative NPRM) could be approved by the Committee at its October 2013 meeting, or at a subsequent meeting. After a comment period (typically thirty days), a Draft Final Rule would be prepared and the Committee and Board could take up a Draft Final Rule at a later meeting.

Management recommends a thirty-day period for notice and comment for the proposed rule. Because LSC previously sought and received comment on the TLOA's amendments to the LSC Act and the proposed changes to Part 1613 are neither complex nor expected to be controversial, a thirty-day comment period is reasonable.

LEGAL SERVICES CORPORATION

45 CFR Part 1613

Restrictions on Legal Assistance With Respect to Criminal Proceedings

AGENCY: Legal Services Corporation

ACTION: Notice of proposed rulemaking

SUMMARY: This proposed rule updates the Legal Services Corporation (LSC or Corporation) regulation on legal assistance with respect to criminal proceedings. The Tribal Law and Order Act of 2010 (TLOA) amended the LSC Act to authorize LSC funds to be used for representation of persons charged with criminal offenses in tribal courts. This proposed rule will bring the regulations into alignment with the amended LSC Act. The proposed rule will also revise the conditions under which LSC recipients can accept or decline tribal court appointments to represent defendants in criminal proceedings.

DATE: Comments must be submitted by [INSERT DATE 30 DAYS AFTER PUBLICATION OF THIS NOTICE IN THE FEDERAL REGISTER].

ADDRESSES: Written comments must be submitted to Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street, NW, Washington, DC 20007; (202) 337-6519 (fax) or [insert address]. Electronic submissions are preferred via email with attachments in Acrobat PDF format. Written comments sent to any other address or received after the end of the comment period may not be considered by LSC.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street, NW, Washington, DC 20007, (202) 295-1563 (phone), (202) 337-6519 (fax), [insert address].

SUPPLEMENTARY INFORMATION:

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Background

Statutory and Regulatory Background

The Corporation first issued 45 CFR Part 1613 in 1976 to implement a statutory prohibition on the use of LSC funds to provide legal assistance in criminal cases. Section 1007 of the LSC Act prohibited the use of LSC funds to provide legal assistance "with respect to any criminal proceeding." Pub. L. 93-355, § 1007(b)(1), 88 Stat. 383 (Jul. 25, 1974) (42 U.S.C. 29963(b)(1). The original section 1613.2 defined "criminal proceeding" as "the adversary judicial proceeding 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.'" 41 FR 38506, Sep. 10, 1976. Neither the proposed rule nor the final rule explains why the Corporation exempted minor criminal cases in tribal courts from the general prohibition.

The following year, Congress amended the LSC Act to codify the Corporation's exemption of minor crimes in tribal courts from the types of criminal proceedings for which LSC funds could not be used. Pub. L. 95-222, § 10(b), 91 Stat. 1620-1623 (Dec. 28, 1977). According to the House Report on H.R. 6666, which became Public Law 95-222, it made this amendment at the Corporation's request. H.R. Rep. 95-310, 1977 U.S.C.C.A.N. 4503, 4515-16 (May 13, 1977). The Committee on the Judiciary explained:

> Section 7(b)(2) permits a legal services program to provide representation in a very narrow category of technically criminal cases that may be viewed as basically civil in nature to a person charged with an offense involving hunting, fishing, trapping or gathering fruits of the land when the principal defense asserted involves rights arising from a treaty with Indians. A number of legal services programs have developed expertise in the highly specialized area of Indian treaty law. Prior to the passage of the

> Legal Services Corporation Act they provided assistance to Indians charged with criminal offenses when the defense arose out of an asserted treaty right. Because an effective defense depends on knowledge of treaty law, rather than a criminal law, state-appointed private counsel and public defenders generally lack the legal background required to provide an effective defense.
>
> The provision of section 7(b)(2) authorizing representation of an Indian charged with a misdemeanor or lesser offense in an Indian tribal court is declaratory of existing law and codifies current Corporation Regulations.
>
> The committee approves the provisions of current Corporation Regulations, that appropriately define the scope of the prohibition against criminal representation and the narrow exceptions to the prohibition that are required for fulfillment of a lawyer's professional obligations and responsibilities.

In 2010, Congress enacted the TLOA. The TLOA had two major effects on tribal criminal jurisdiction. First, it authorized tribal courts to impose longer sentences, raising the maximum duration from up to one year to a total of nine years for multiple charges. Pub. L. 111-211, Tit. II, Subtitle C, § 234(a), 124 Stat. 2280 (Jul. 29, 2010). Second, it required tribes exercising the expanded sentencing authority to, "at the expense of the tribal government, provide an indigent defendant the assistance of a defense attorney." Pub. L. 111-211, Tit. II, Subtitle C, § 234(c)(2), 124 Stat. 2280. Of most relevance for LSC funding recipients, the TLOA amended section 1007(b)(2) of the LSC Act to authorize the use of LSC funds to provide representation in <u>all</u> criminal proceedings before tribal courts. Pub. L. 111-211, Tit. II, Subtitle C, § 235(d), 124 Stat. 2282.

Congress further expanded tribal court jurisdiction in 2013. Through the Violence Against Women Reauthorization Act of 2013 (2013 VAWA), Congress amended the Indian Civil Rights Act of 1968 to authorize tribal courts to exercise special criminal jurisdiction over domestic violence cases. Pub. L. 113-4, § 904(b)(1), 127 Stat. 120-121 (Mar. 7, 2013) (25 U.S.C.

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§ 1304(a)). This "special domestic violence criminal jurisdiction" is exercised concurrently with state or Federal jurisdictions, or both, as applicable. Pub. L. 113-4, § 904(b)(2), 127 Stat. 121 (25 U.S.C. § 1304(b)(2)). Unlike prior congressional enactments, the 2013 VAWA explicitly authorizes tribes to exercise jurisdiction over both Indian and non-Indian defendants in certain circumstances.

In order for the tribe to assert special domestic violence criminal jurisdiction, the alleged act must have occurred within Indian country. Pub. L. 113-4, § 904(c), 127 Stat. 122. "Indian country" is a term of art defined in 8 U.S.C. § 1151. If neither the victim nor the accused is Indian, the court may not exercise jurisdiction. Pub. L. 113-4, § 904(b)(4)(A)(i), 127 Stat. 121. If only the accused is a non-Indian, the court may exercise jurisdiction only if the accused resides in the Indian country over which the tribe has jurisdiction; is employed in the Indian country of the tribe; or is a spouse, intimate partner, or dating partner of a member of the tribe or an Indian who resides in the Indian country of the tribe. Pub. L. 113-4, § 904(b)(4)(B), 127 Stat. 122.

The 2013 VAWA also introduced another set of crimes in Indian country for which defendants are entitled to counsel at the tribal government's expense. Section 904(d)(2) states that if a sentence of any length of time may be imposed, the defendant is entitled to all of the rights laid out in Section 202(c) of the Indian Civil Rights Act. Pub. L. 113-4, § 904(d)(2), 127 Stat. 122. The TLOA previously amended section 202(c) to require tribes exercising expanded criminal sentencing authority to provide counsel only to defendants facing total terms of imprisonment that would exceed one year. Pub. L. 111-211, § 234(a), 124 Stat. 2280.

In summary, the TLOA and the 2013VAWA amended the Indian Civil Rights Act to expand both the sentencing authority and the jurisdiction of tribal criminal courts. The TLOA also amended the LSC Act to allow the use of LSC funds for representation of criminal

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defendants in tribal courts facing sentences of more than a year. LSC funding recipients now have the option of using their LSC funds to provide criminal representation. Additionally, because tribes must provide defendants with counsel at tribal government expense in certain circumstances, LSC recipients may be faced with increasing numbers of appointments to represent criminal defendants.

LSC Consideration of the Statutory Changes

On January 25, 2013, the Operations and Regulations Committee (the Committee) of the LSC Board of Directors (the Board) voted to recommend that the Board authorize rulemaking to conform Part 1613 to the amendments to the LSC Act and to address recipients' concerns regarding criminal appointments. On January 26, 2013, the Board authorized the initiation of rulemaking.

In response to the statutory changes described above, LSC sought input from experts in tribal law, including tribal court officials and practitioners, and the public to determine whether the Corporation needed to amend its regulations. LSC published a Request for Information (RFI) regarding the restrictions on legal assistance with respect to criminal proceedings in tribal courts. 78 FR 27341, May 10, 2013. Additionally, during its July 22, 2013 meeting of the Board of Directors, the Committee heard from a panel of five experts in tribal law representing a variety of perspectives.

During the July 22, 2013 panel presentation, the panelists' commentary focused on two main issues: the limited availability of resources to provide representation in criminal cases, and the political and cultural difficulties of representing defendants charged with domestic violence, particularly non-Indian defendants. One commentator noted that at the current time, LSC's Native American grants are too small to meet the existing needs of tribal communities. The

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clients tend to live far from the grantee's offices and from each other, requiring attorneys to travel long distances and incur expenses for gas and lodging. The costs associated with this travel and the limited funding available to cover them make it difficult to attend frequent court hearings. For this reason, the commentator did not see LSC Native American grant recipients undertaking widespread representation under TLOA. He recommended that any potential amendments to the regulations allow flexibility for recipients of LSC Native American grants to take on this type of representation if they determine it is a priority, but not to require grantees to do it.

In a similar vein, a member of the Board raised a concern he had heard from recipients: that tribal courts would execute their responsibility to provide representation at tribal expense by simply appointing LSC-funded attorneys. One commentator concurred with the concern and recommended that any amendments to the rule provide the flexibility that the previous panelist preferred, but at the same time protect grantees from having to accept compulsory appointments. A third commentator followed up on a related question by opining that LSC-funded grantees, as the attorneys working in tribal communities and conversant with tribal cultures, are more appropriate to undertake expanded criminal representation than attorneys with expertise in criminal law, but with no background in Indian law or tribal communities.

With respect to the policy of representing defendants in domestic violence cases, panelists generally agreed that doing so would raise thorny issues of parity among victims and defendants, as well as Indian and non-Indian defendants. Two panelists noted that their organizations approach domestic violence representation from the victim's perspective and would be reluctant to represent the defendant in a domestic violence case. One panelist also identified the possibility that representation of a defendant would prevent an LSC-funded

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organization from representing the alleged victim in the case, thereby reducing the amount of assistance available to victims. Similarly, the two panelists also stated opposition to using LSC Native American funds to represent non-Indian defendants in cases involving Indian victims. Their opposition arose out of both the potential use of Native American grant funding to represent non-Indian defendants, thereby reducing the amount of funding available to assist Indian victims, and to the need to ensure that if non-Indian defendants had access to counsel, Indian victims would have access to counsel as well.

The RFI, published on May 10, 2013, asked commenters to answer questions about the impact of the TLOA and VAWA on criminal laws in tribal jurisdictions and on tribal appointments of defense counsel. 78 FR 27341, May 10, 2013. The comment period closed on August 23, 2013. LSC received comments from three tribes, one tribal prosecutor, and one organization representing attorneys practicing in front of tribal courts. Of the four responding tribal entities, one does not exercise criminal jurisdiction, one indicated that it was not aware of any changes that the tribe would be making to its authority to hear and hand down sentences in criminal cases, one was in the process of reviewing its criminal laws to determine whether they needed amending to be consistent with the TLOA and VAWA, and one had received a grant to begin drafting a criminal code that would comply with TLOA and VAWA. Both of the tribes that are working on their criminal codes welcomed the ability of grantees to use LSC funds to represent defendants in all criminal matters, including domestic violence cases. One tribe invited LSC's involvement as it develops its domestic violence case policies and identified direct contracts between itself and LSC grantees as a way to ensure that it can fulfill its responsibility under TLOA to provide counsel to defendants in criminal cases. Another stated its opinion that representation of indigent defendants is hindered by a lack of funding, and that LSC funds could

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help provide proper representation for indigent defendants facing criminal charges in its tribal court.

The representative organization's comments were substantially similar to some of the comments made by panelists at the July 22, 2013 Committee meeting. For example, the organization reiterated that LSC's Native American grant funding is limited and inadequate to meet existing needs, such that requiring grantees to provide counsel in criminal proceedings would exacerbate financial pressures. It stated that the primary mission of LSC Native American grant recipients is to provide high-quality civil legal services in matters that uniquely affect tribes, such as ensuring that the rights of tribes and tribal members guaranteed by the Indian Child Welfare Act are protected. The organization also reiterated two additional concerns stated by panelists at the July 22, 2013 Committee meeting. The first was that a provider's representation of a defendant in a domestic violence case would create a conflict of interest that would prevent the provider from providing legal assistance to the victim. The second was that requiring representation of criminal defendants could mean using the limited LSC Native American funding to represent non-Indian defendants in tribal criminal proceedings. Finally, the commenter recommended that LSC amend Part 1613 to be consistent with the TLOA and allow grantees the option of representing defendants in tribal criminal proceedings, but not require such representation.

Pursuant to the LSC Rulemaking Protocol, LSC staff prepared a proposed rule amending Part 1613 with an explanatory rulemaking options paper. On October XX, 2013, the Committee approved the proposed rule for publication in the Federal Register for notice and comment. A section by section discussion of the proposed rule is provided below.

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Authority

The authority is revised to update the provision of the LSC Act governing representation in criminal proceedings and reflect the change in authorization made by the Tribal Law and Order Act of 2010.

Proposed Changes

1613.1 Purpose

The Corporation proposes to revise this section to state that LSC funding recipients may not represent individuals in criminal proceedings unless authorized by Part 1613. Previously, this section only recognized that recipients were authorized to provide assistance in criminal proceedings if the attorney's responsibilities as a member of the bar required him to provide such assistance. The LSC Act has been amended twice to authorize criminal representation in tribal proceedings since the regulation was originally enacted in 1976, and the Corporation now proposes to amend Part 1613 to be consistent with those statutory amendments. For these reasons, the Corporation believes it is necessary to amend this section to recognize that, in addition to an attorney's professional responsibilities, Federal statutes and regulations may also authorize an LSC-funded attorney to undertake criminal representation.

1613.2 Definition

The Corporation proposes to amend the definition of "criminal proceeding" to remove the exclusion of misdemeanors or lesser offenses in Indian tribal courts from the definition. This change is proposed for two reasons. First, removing the exclusion of misdemeanors or lesser offenses within tribal court jurisdiction would bring the rule into alignment with section 1007(b)(2) of the LSC Act, which authorizes LSC funds to be used for representation in criminal

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proceedings before Indian tribal courts. Second, removing the exclusion makes clear that criminal proceedings in Indian tribal courts are "criminal proceedings" subject to the provisions in proposed 1613.5.

1613.3 Prohibition

The Corporation proposes to amend this provision by replacing "by this part" with the phrase "by any applicable statute or regulation." The reason for the amendment is to allow for the regulation to apply without need for revision in the event Congress further amends the criminal representation prohibition in the LSC Act or makes similar changes through annual appropriations acts. The Board would retain the discretion to amend the regulations if it did not wish to authorize criminal representation as broadly authorized by statute.

1613.4 Authorized representation

The Corporation proposes to revise section 1613.4(a) to allow recipients to undertake criminal appointments after a determination that such appointment "will not impair the recipient's primary responsibility to provide civil legal services." Under the current rule, recipients must determine that accepting a criminal appointment will be "consistent with" its primary responsibility to provide civil legal services. The Corporation believes that changing the standard to impairment of the recipient's primary responsibility to provide civil legal services will allow recipients to consider the impact a criminal appointment will have at a more meaningful level because it contemplates that such appointments may have a measurable impact on a recipient's financial and human resources.

1613.5 Criminal representation in Indian tribal courts

The Corporation proposes to add a new section 1613.5 to address representation in criminal cases before Indian tribal courts and the circumstances under which recipients may

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accept a tribal court appointment to represent a criminal defendant. Subsection (a) reiterates the statutory authorization for LSC funds to be used for representation of a person charged with an offense in an Indian tribal court. Subsection (b) is similar to section 1613.4(b) in that it allows recipients to accept court appointments when the recipient determines that the appointment will not impair the recipient's primary responsibility to provide legal assistance to eligible clients in civil matters.

List of Subjects in 45 CFR Part 1613

Crime, Grant programs – law, Legal services, Tribal

For the reasons stated in the preamble, the Legal Services Corporation proposes to amend 45 CFR Part 1613 as follows:

PART 1613 – RESTRICTIONS ON LEGAL ASSISTANCE WITH RESPECT TO CRIMINAL PROCEEDINGS

1. The authority citation for Part 1613 is revised to read as follows:

   Authority: Sec. 234(d), Pub. L. 111-211, 124. Stat. 2282; 42 U.S.C. § 2996f(b)(2)

2. Amend section 1613.1 to read as follows:

§ 1613.1 Purpose

This part is designed to ensure that Corporation funds will not be used to provide legal assistance with respect to criminal proceedings unless such assistance is authorized by this part.

3. Amend section 1613.2 to remove the last sentence excepting misdemeanor or lesser offenses in tribal courts from the definition of "criminal proceeding":

§ 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.

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4. Amend section 1613.3 to read as follows:

§ 1613.3 Prohibition

Corporation funds shall not be used to provide legal assistance with respect to a criminal proceeding, unless authorized by any applicable statute or regulation.

5. Amend section 1613.4(a) to read as follows:

***

(a) Pursuant to a court appointment made under a statute or a court rule of equal applicability to all attorneys in the jurisdiction, if authorized by the recipient after a determination that acceptance of the appointment will not impair the recipient's primary responsibility to provide legal assistance to eligible clients in civil matters.

5. Add section 1613.5 to read as follows:

§ 1613.5 Criminal representation in Indian tribal courts

(a) Legal assistance may be provided with Corporation funds to a person charged with a criminal offense in an Indian tribal court who is otherwise eligible.

(b) Legal assistance may be provided in a criminal proceeding in an Indian tribal court pursuant to a court appointment only if the appointment is (1) made under a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction, and (2) is authorized by the recipient after a determination that acceptance of the appointment would not impair the recipient's primary responsibility to provide civil legal assistance to eligible clients.

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Funding of Services for Migrants and Other Farmworkers

MEMORANDUM

TO: Operations and Regulations Committee

FROM: Ronald S. Flagg, General Counsel
Mark F. Freedman, Senior Assistant General Counsel
Bristow Hardin, Program Analyst, OPP

CC: Janet Labella, Tillie Lacayo

DATE: October 8, 2013

SUBJECT: Funding of Legal Assistance for Migratory and Other Farmworkers

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OVERVIEW

LSC has provided grants to serve migratory and other farmworkers (generally referred to as "migrant grants") with appropriated funds since the 1970's. Since 1996, funds appropriated for "basic field programs" have been allocated to each state, territory and the District of Columbia via a per capita funding formula based on data from the U.S. Census Bureau regarding the location of the poverty population. The entire state, territory, or District of Columbia is a single "geographic area" within which LSC may designate one or more "service areas" for grants. Within most of these geographic areas, LSC distributes those funds through general-purpose basic field grants and through separate migrant grants.[1] The amount of the migrant grant in each geographic area is based on the migrant population of that area, which is deducted from the total poverty population for that area for purposes of calculating the general-purpose basic field grant.

The basis on which LSC allocates migrant grants raises at least two fundamental issues. First, the data used to estimate the migrant population of each geographic area are outdated. There is no U.S. Census Bureau estimate of migrant population, and the migrant population figures LSC uses to compute migrant grants are based on historical estimates dating back to 1990. Second, there is a mismatch between the population served by so-called "migrant

[1] There are migrant grants covering 43 states and Puerto Rico. There is no more than one migrant service area in a state. Services to migrants in six New England states (CT, MA, ME, NH, RI, and VT) are provided by Pine Tree Legal Assistance through a single service area (under a single migrant grant). Grants are provided to grantees for migrant services in 18 states with a single basic field grantee, and 20 states with multiple basic field service areas. FY13 grant amounts for service areas in individual states range from $25,406 (LA) to $2,435,542 (CA).

grants" – generally migrants *and* other farmworkers – and the population used to determine the distribution and allocation of migrant grants – solely migrant workers.

This memorandum provides background information regarding the funding of grants for legal assistance to migrants and farmworkers and these two issues. The memorandum covers the following topics:

- Historical and Legal Context of LSC's Funding of Legal Assistance for Migratory and Other Farmworkers
- LSC Funding for Legal Services for Migratory and Other Farmworkers Since 1974
- Populations Currently Served by LSC Migrant Grantees and the Scope of Those Services
- NLADA 2013 Analysis of the Population of Agricultural Workers
- Migrant Census and Eligibility Issues
- Next Steps

I. HISTORICAL AND LEGAL CONTEXT OF LSC'S FUNDING OF LEGAL ASSISTANCE FOR MIGRATORY AND OTHER FARMWORKERS

LSC has provided targeted funding for migrant legal services since LSC's establishment.[2] Although this has been termed "migrant funding," migrant programs have served migrants *and* other farmworkers throughout this period and LSC has found on several occasions that this is the most effective and efficient way to address the legal needs of these clients.

A. Legal Authority for Sub-Population Grants

The LSC Act provides broad general authority for LSC grantmaking for "the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance." 42 U.S.C. § 2996b(a). Section 1006(a)(1) of the LSC Act authorizes LSC "(A) to provide financial assistance to qualified programs furnishing legal assistance to eligible clients . . . and (B) to make such other grants and contracts as are necessary to carry out the purposes and provisions [of the LSC Act.]" 42 U.S.C. § 2996e(a)(1)(A) and (B). Starting in 1996, Congress has appropriated almost all grant funds (with the exception of Technology Initiative Grants, which began in 2000) in a single broad category -- basic field programs providing direct legal services. The LSC Act does not further define the nature of those grants and leaves to LSC the discretion to determine what types of grants to provide to "insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas." 42 U.S.C. § 2996f(a)(3).

In the 1977 reauthorization of the LSC Act, Congress recognized the needs of special populations by requiring LSC to conduct a study of the legal needs of migrants and seasonal

[2] This funding built on and expanded the legal assistance previously funded by the Legal Services Program of the Office of Economic Opportunity (OEO) and the Department of Labor.

farmworkers and other specific subpopulations and to implement methods of addressing those needs. Pub. L. 95-222, § 13, adding § 1007(h) of the LSC Act, codified at 42 U.S.C. § 2996f(h). Section 1007(h) of the LSC Act provides:

> The Corporation shall conduct a study on whether eligible clients who are—
>
> (1) veterans,
> (2) native Americans,
> (3) migrants or seasonal farm workers,
> (4) persons with limited English-speaking abilities, and,
> (5) persons in sparsely populated areas where a harsh climate and an inadequate transportation system are significant impediments to receipt of legal services
>
> have special difficulties of access to legal services or special legal problems which are not being met. The Corporation shall report to Congress no later than January 1, 1979, on the extent and nature of any such problems and difficulties and shall include in the report and implement appropriate recommendations.

LSC's Section 1007(h) Study, issued in 1979, concluded that specialized legal expertise and knowledge were needed to address the distinctive "unmet special legal problems" that migrants and seasonal farmworkers shared because of their status as farmworkers.[3] The Section 1007(h) Study also discussed issues still pertinent to the funding of migrant grants today, most notably:[4]

- Funding for migrant legal services was based on the migrant population, although migrant programs assisted farmworkers in addition to migrants;
- Based on the funding allocation, basic field programs had the responsibility to represent farmworkers who were not migrants, but they lacked the expertise to do so on issues related to clients' status as farmworkers; thus, it was appropriate for migrant programs to provide services to farmworkers other than migrants; and,
- Basic field programs had the legal expertise to serve migrants and other farmworkers on legal issues unrelated to their status as migrants or farmworkers, but other factors (*e.g.,* language, location, interrelationships between status and other legal issues) had limited their ability to do this effectively. In this regard, the study reported that "[c]reating a duplicate delivery system for farmworkers -- one for [farmworker] status-related problems and another for other problems -- may often be impractical, if not impossible. . . ."

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[3] Legal Services Corporation, *Special Legal Problems and Problems of Access to Legal Services of Veterans, Migrant and Seasonal Farm Workers, Native Americans, People, with Limited English-Speaking Ability , and Individuals in Sparsely Populated Areas*, 1979 ("Section 1007(h) Study"). The shared legal needs of migrants and seasonal farmworkers and the need for specialized legal assistance are addressed on pp. 40-42 and pp. 313-315. The study's full analysis of these issues is set forth in Chapter I, Section III, D, and Chapter V.

[4] The information and quotations below are from the 1007(h) Study at 38-40, 310-312.

The LSC regulation on competition for direct-delivery grants, 45 C.F.R. Part 1634, promulgated in 1996, implements LSC's authority to award grants to serve the specific legal needs of subpopulations:

> The Corporation shall determine the service areas to be covered by grants or contracts and shall determine whether the population to be served will consist of all eligible clients within the service area or a specific subpopulation of eligible clients within one or more service areas.

45 C.F.R. § 1634.3(b). The regulation defines "subpopulation of eligible clients" to include

> Native Americans and migrant farm workers and may include other groups of eligible clients that, because they have special legal problems or face special difficulties of access to legal services, might better be addressed by a separate delivery system to serve that client group effectively.

45 C.F.R. § 1634.2(d).

B. June 2000 Letter from LSC President John McKay to LSC Grantee Directors

A letter from LSC President John McKay (McKay letter) to directors of LSC grantees dated June 19, 2000, provided what is perhaps the most elaborate statement by LSC management about the scope and focus of migrant legal services grantees' work. The letter emphasized that the "factors enumerated in the 1007(h) Study are as true as they were 22 years ago."

To address eligible clients' legal needs, the letter stated that LSC expected migrant legal services projects to "primarily represent those clients in need of legal assistance from a specialized migrant unit because (1) they are faced with barriers which otherwise restrict clients' access to legal assistance and (2) they have specialized legal needs which arise from their work in agriculture and status as a farmworker." The letter elaborated in two ways regarding the categories of eligible clients satisfying these criteria. First, the letter made clear that service provided by migrant programs should cover agricultural workers beyond migratory workers. Second, the letter expanded the universe of agricultural workers that migrant programs should serve, stating that migrant program "should treat some types of work, not typically thought of as "farm work" as farm work or agricultural employment." The additional types of work were forestry, nursery work, cotton ginning, mushroom growing, seed conditioning, pine bough tying, aloe vera processing, work on sod farms, work in meat and poultry processing plants, livestock and feed lot work, sheepherding, work on egg farms and tobacco housing/stripping warehousing. Finally, the letter advised migrant grantees to focus their resources on representation related to the status of migratory and agricultural workers as migratory and agricultural workers (*e.g.*, employment matters), leaving to basic field programs

representation of such workers on issues not related to their status as migratory and agricultural workers.

The letter also said that basic field programs (with internal migrant farmworker projects), not the migrant grantees, should represent farmworkers on issues not related to farmworker status while permitting the migrant grantees to represent migrant and other farmworkers on farmworker status-related issues.

C. Federal Laws and Federal Programs Targeting Migratory and Other Farmworkers

LSC's targeting of legal services to a broader category of agricultural workers going beyond migratory workers, is consistent with the approach taken by the federal government. The provisions of major laws applicable to the legal needs of agricultural workers apply to a broader category agricultural workers that includes, but is not limited to, migratory workers. These laws are:

- The Migrant and Seasonal Agricultural Worker Protection Act
- Field Sanitation Standards under the Occupational Safety and Health Act
- Fair Labor Standards Act

Likewise, major programs administered and funded by federal agencies recognize the similar needs of farmworkers and migrants and provide services to *all* farmworkers (or agricultural workers), including the following programs:

- Department of Education, Migrant and Seasonal Farmworkers Program (vocational rehabilitation)
- Department of Health and Human Services, Health Resources and Services Administration, Migrant Health Centers
- Department of Health and Human Services, Administration of Children and Families, Office of Head Start, Migrant and Seasonal Head Start
- Department of Labor, Employment and Training Administration, National Farmworker Jobs Program
- Department of Labor, Employment and Training Administration, Migrant and Seasonal Farmworkers Monitor Advocate System[5]

II. LSC FUNDING FOR MIGRATORY AND OTHER FARMWORKERS SINCE 1974

A. Migrant Funding Prior to FY1996

LSC has provided funding for migrant legal services since LSC's establishment, building on the legal assistance previously funded by the Legal Services Program of OEO and the Department of Labor. LSC funding allocations to migrant grants from the early 1980s through

[5] Two Department of Education programs focus exclusively on the needs of migrants and their dependents, Migrant Education Even Start and Migrant Education Program.

FY96, reflected policies implemented by LSC during the 1979-1981 period, which immediately followed the issuance of the Section 1007(h) Study. Starting in 1986, Congress set specific funding amounts ("lines") for migrant legal services and several other funding categories or entities (*e.g.,* national and state support, Native American grantees, the National Clearinghouse) in LSC's annual appropriation. These funding lines specified the *minimum* amounts of funding that LSC had to provide grantees for the identified purposes. The FY93 and FY94 appropriations laws specified the use of the Migrant Health Atlas[6] and the Larson-Plascencia study[7] to govern the distribution of funding among migrant programs. (The total migrant population was derived from the Migrant Atlas; the distribution among states was based on the Larson-Plascencia enumeration.)

Because there were only very small differences in the relative shares of LSC funding Congress allocated to migrant, basic field and Native American service areas throughout the FY82-FY95 period,[8] it appears that Congress did not intend to change the migrant funding policy or allocations that LSC had set in 1981.

B. Migrant Funding Since FY1996

The FY96 LSC appropriation eliminated all "lines" for special legal services except for Native American funding. LSC then implemented the policy that has guided migrant funding until today. This policy's major elements include:

- Funding for migrant legal services is based on the estimated size of the migrant poverty population in each geographic area. The funding for this population is "backed out" of the funding for the rest of a state's poverty population.
- The 1990 Migrant Health Atlas figure used to estimate the total migrant population was 1,661,875.[9] LSC determined in 1975 that 70% of this population – 1,116,195 – had incomes below the poverty line.[10]

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[6] U.S. Department of Health and Human Services, Public Health Service, Health Resources and Services Administration, Bureau of Health Care Delivery and Assistance, Migrant Health Program, *An Atlas of State Profiles Which Estimate Number of Migrant and Seasonal Farmworkers and Members of Their Families*.

[7] Larson, Alice and Plascencia, Luis, *Migrant Enumeration Project 1993*, Thomas Rivera Center.

[8] This is illustrated by the minimal differences in the relative shares of LSC funding that were allocated among migrant, basic field and Native American service areas between FY82 and FY95. Data for the following years are illustrative: FY82, when the 1979-1981 policies were first reflected in funding levels; FY85, the year before Congress began setting funding floors; FY86, the first year after floors were set; FY94, the last year the Migrant Health Atlas-Larson-Plascencia numbers were used to specify allocation of migrant funding issues; and FY95, the last year funding "lines" were set for migrant and other funding categories. The respective funding levels for migrant grants in those years, expressed as a percentage of the sum of migrant, basic field and Native American grant funds were: 3.58%, 3.60%, 3.40%, 3.50%, and 3.46%. The small variances in these numbers may have resulted from data inconsistencies (*e.g.*, the tables from which these data are drawn are from different data sets), shifts in the amounts going to categories other than migrant, basic field or Native Americans, rounding, etc.

[9] *Migrant Health Atlas*, Table II.

- The distribution of the total migrant population among states is based on the Larson-Plascencia data.
- The Migrant Health Atlas and Larson-Plascencia estimates were used in the FY96 funding policy because they had the imprimatur of Congress; as noted above, the FY93 and FY94 LSC appropriations had required their use for allocating increases in migrant funding for those years.

In December 1995 and March 1996, LSC President Alex Forger notified Congress of the migrant funding policy set forth above that LSC intended to implement for FY96.[11] Both communications requested that Congress notify LSC if it had objections to the migrant funding policy LSC intended to implement. Congress did not notify LSC of any such concerns. LSC's final FY96 appropriation enacted after the December 1995 communication provided no language pertaining to migrant funding.

LSC's current funding for migrant services assumes that changes in the total size of the migrant population since the implementation of the FY96 policy (then based on 1990 data) have closely mirrored the changes in the size of the total US poverty population. (The increase in the total poverty population served by LSC since the1990 Census is 40.2%; the increase in the estimated size of the migrant population is 39.3%.) Based on this assumption, the current migrant population for LSC funding purposes is 1,619,982, which is 3.39% of the total poverty population served by LSC.

Available data indicate that the estimates of the size and distribution of the migrant population currently used to determine the size and allocation of migrant grants likely are not accurate, not surprising given that they are based on data sets that are more than 20 years old. Although we do not have a precise estimate of the current size of the migrant population (including dependents) below the poverty line, Department of Labor data suggest that the number may be no more than 1 million.[12] If the migrant poverty population is 1 million, and that figure were used to calculate LSC migrant grants, the migrant poverty population's share of the LSC poverty population – and thus its share of LSC basic field funding – would fall from 3.39% to 2.09%.

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[10] We are not able to identify the basis for this 70% poverty population calculation. Based on the 1.116 million poverty population figure, per-person funding for migrants and basic field clients was the same: $7.58, suggesting that the poverty population calculation was derived by equalizing the per-person funding for migrants and basic field grants.

[11] Letter dated December 20, 1995, from Alex Forger, LSC President, to Rep. Harold Rogers, Chairman, and Rep. Alan B. Mollohan, Ranking Minority Member, of the House Appropriations Subcommittee on Commerce, Justice, State and the Judiciary, and Sen. Judd Gregg, Chairman, and Sen. Ernest F. Hollings, Ranking Minority Member, of the Senate Appropriations Subcommittee on Commerce, Justice, State and the Judiciary, Committee on Appropriations, United States Senate. Letter dated March 22, 1996, from Alex Forger, LSC President, to Rep. Harold Rogers and Sen. Judd Gregg.

[12] Staff of the Department of Labor, Employment and Training Administration will soon provide the most recent numbers, which will be based on data from the National Agricultural Workers Survey and other sources.

III. POPULATIONS CURRENTLY SERVED BY LSC MIGRANT GRANTEES AND THE SCOPE OF THOSE SERVICES

As described above, LSC migrant grantees have not limited their services to clients who meet the Migrant Health Atlas definition of the term "migrants"; most provide legal assistance to the larger universe of agricultural workers identified in the McKay letter.[13]

Consistent with the McKay letter, LSC expects migrant grantees to focus their services on issues related to migrants' and agricultural workers' *status* as migrants and agricultural workers rather than all of their legal needs. Case Service Reports indicate that the services of migrant programs are in fact targeted on these issues. For example, of cases closed by migrant grantees in 2012, 54.3% and 13.6% were in case categories typically related to status as migratory or agricultural workers -- employment (*e.g.*, job discrimination, wage claims, other agricultural worker issues) and individual rights (*e.g*., immigration/naturalization, human trafficking), respectively. By contrast, the respective numbers for basic field grantees (non-PAI) in these categories were much lower -- 2.5% and 1.8%.

IV. NLADA 2013 ANALYSIS OF THE POPULATION OF AGRICULTURAL WORKERS

A recent analysis funded by the National Legal Aid and Defender Association (NLADA) provided extensive data regarding the population of "agricultural workers" – not just "migrant" or "migrant and seasonal farmworkers." The NLADA study does not provide separate estimates for the size of the migrant population and other agricultural workers, nor does it provide poverty estimates for the population of agricultural workers. It also includes livestock workers, while the farmworkers included in the LSC estimate of the migrant population is limited to crop workers.

Because of the broader universe it uses, the NLADA study estimates that the agricultural worker population is far larger than the migrant poverty population of 1,116,195, which is used in LSC's funding formula. The NLADA estimate of the total agricultural worker population

[13] This service focus on agricultural workers, not just migratory workers, is consistent with the findings of the Section 1007(h) Study and other research regarding the similarity of the legal needs of migrants and other farmworkers. In addition, attempting to distinguish between migrants and non-migrants is made difficult and impractical by the following factors: migratory and non-migratory farmworkers may be part of the same family; a client may have migrated in a prior period but is not migrating at the time services are provided (or vice-versa); and migratory and other farmworkers may require services for the same issue or case. Further, there is no generally accepted definition of "migrant." The Section 1007(h) Study, the Migrant Atlas, and the Larson-Plascencia study each used different definitions of "migrants". In addition, different definitions of migrants or farmworkers are used in the targeting of resources of federal programs serving migratory and other farmworkers.

(including dependents) is 4,691,713. Of this number, 2,082,370 individuals are agricultural workers and 2,609,343 are their dependents (of whom 1,642,919 are children).[14]

V. MIGRANT CENSUS AND ELIGIBILITY ISSUES

The distribution of LSC's basic field funding does not consider the immigration status of the poverty population across the country. The American Community Survey poverty estimates provide no reliable data regarding immigration status. The Department of Labor, Employment and Training Administration's National Agricultural Workers Survey (NAWS) provides reliable information about the authorization status and locations of farmworkers. Current estimates are that approximately 50% of agricultural workers are unauthorized workers.[15] Any adjustment of farmworker population estimates for documentation status related to the eligibility criteria of section 1626 of the LSC regulations would be complicated by at least one factor. A significant number of dependents of unauthorized farmworkers are LSC-eligible, either as U.S. citizens or eligible aliens. For example, of the 5.5 million children of unauthorized immigrants, 4.5 million (82%) are U.S. citizens.[16]

VI. PROPOSED NEXT STEPS

As indicated above, the basis on which LSC allocates migrant grants raises at least two fundamental issues: (1) the data used to estimate the migrant population of each geographic area are outdated, and (2) there is a mismatch between the population served by migrant grants – generally migrants *and* other agricultural workers – and the population used to determine the distribution and allocation of migrant grants – solely migrant workers. We propose that LSC Management investigate these issues further and prepare and present to the Committee in January or April a set of options to address them.

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[14] The 1990 Atlas estimate of the *total* migrant and seasonal farmworker population (*not* those below the poverty line) was 4,171,419.

[15] Carroll, Daniel, Annie Georges and Russell Saltz, "Changing Characteristics of U.S. Farm Workers: 21 Years of Findings from the National Agricultural Workers Survey," PowerPoint Presentation for the Immigration Reform and Agriculture Conference: Implications for Farmers, Farm Workers, and Communities, University of California, D.C. Campus, 12 May 2011, p.20.

[16] Pew Hispanic Center, Pew Research Center, Unauthorized Immigrant Population: National and State Trends, 2010, February 1, 2011.

III. Governance & Performance Review Committee

GOVERNANCE AND PERFORMANCE REVIEW COMMITTEE

October 20, 2013

Agenda

OPEN SESSION

1. Approval of agenda

2. Approval of minutes of the Committee's meeting of July 23, 2013

3. Report on progress in implementing GAO recommendations

    - Presentation by Carol Bergman, Director of Government Relations & Public Affairs

4. Report on revised forms for Board evaluations

    - Presentation by Carol Bergman, Director of Government Relations & Public Affairs

5. Report on Public Welfare Foundation grant and LSC research agenda

    - Presentation by Jim Sandman, President

6. Consider and act on LSC's Conflicts of Interest Policy

    - Presentation by Ron Flagg, Vice President for Legal Affairs, General Counsel & Corporate Secretary

7. Consider and act on other business

8. Public comment

9. Consider and act on motion to adjourn meeting

Draft Minutes of

July 23, 2013 Meeting

Legal Services Corporation
Meeting of the Governance and Performance Review Committee
Open Session

Tuesday, July 23, 2013

Committee Chair Martha L. Minow convened an open session meeting of the Legal Services Corporation's ("LSC") Governance and Performance Review Committee ("the Committee") at 8:35 a.m. on Tuesday, July 23, 2013. The meeting was held at the Warwick Hotel, 1776 Grant Street, Denver, Colorado 80203.

The following Committee members were present:
Martha L. Minow, Chair (by telephone)
Sharon L. Browne
Charles N.W. Keckler
Julie A. Reiskin
John G. Levi, ex officio

Other Board members present:
Robert J. Grey, Jr.
Harry J.F. Korrell, III
Victor B. Maddox
Laurie I. Mikva
Father Pius Pietrzyk
Gloria Valencia-Weber

Also attending were:

James J. Sandman	President
Lynn Jennings	Vice President for Grants Management
Wendy Rhein	Chief Development Officer
Richard L. Sloane	Chief of Staff and Special Assistant to the President
Rebecca Fertig	Special Assistant to the President
Ronald S. Flagg	Vice President for Legal Affairs, General Counsel, and Corporate Secretary
Mark Freedman	Senior Assistant General Counsel, Office of Legal Affairs
Carol A. Bergman	Director, Office of Government Relations and Public Affairs
Carl Rauscher	Director of Media Relations, Office of Government Relations and Public Affairs
Jeffrey E. Schanz	Inspector General
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the 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
Lora M. Rath	Director, Office of Compliance and Enforcement

Janet LaBella	Director, Office of Program Performance
Chuck Greenfield	National Legal Aid and Defender Association (NLADA)
Don Saunders	NLADA
Lisa Wood	Chair, American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID)
Bev Groudine	American Bar Association Commission on IOLTA, SCLAID

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

Committee Chair Minow noted the presence of a quorum and called the meeting of the Committee to order.

MOTION

Ms. Browne moved to approve the agenda. Ms. Reiskin seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Ms. Browne moved to approve the minutes of the Committee's meeting of April 14, 2013. Mr. Keckler seconded the motion.

VOTE

The motion passed by voice vote.

Ms. Bergman reported on LSC's progress in implementing the GAO's recommendations to improve grantmaking and internal operations. She answered Committee members' questions. She then presented revised draft Board and committee evaluation forms for the Committee's consideration.

President Sandman next reported on the Public Welfare Foundation grant and LSC's research agenda. He answered Committee members' questions.

Next, Mr. Flagg presented a proposed amendment to the LSC bylaws to include a temporary recess provision for committee meetings. He answered Committee members' questions.

MOTION

Mr. Keckler moved to approve the resolution to amend LSC's bylaws to include a temporary recess provision for committee meetings. Ms. Browne seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Ms. Reiskin moved to approve the resolution designating Ronald Flagg as LSC Ethics Officer. Ms. Browne seconded the motion.

VOTE

The motion passed by voice vote.

Committee Chair Minow invited public comments and received none.

There was no other business to consider.

MOTION

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

VOTE

The motion passed by voice vote.

The meeting of the Committee adjourned at 9:31 a.m.

GAO 2010 Report Tracking Document

Status of GAO Recommendations from June 2010 Report
"Improvements Needed in Controls over Grant Awards & Grantee Program Effectiveness"

#	Grant Application Processing and Award	Date 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.	June 2010 August 2010 June 2010	Real time observation of LSC Grants Real time observation of LSC Grants Real time observation of LSC Grants	Changes to the LSC Grants software program have been implemented and include: • The home page of the LSC Grants review module has been revised to include a listing of grant documents that must be reviewed (if applicable). The final page of the review module requires the reviewer to certify, by entering the reviewer's name, that all applicable grant documents have been reviewed in completing the grant application evaluation. • LSC grants includes a page for OPP management to use in certifying the meeting(s) held with staff reviewers to discuss data used in the evaluation process, the reviewer's recommendations, and management's final funding recommendation for the grant applicant. • The evaluation module of LSC grants is modified to designate certain reviewer data fields as required, which prohibits a reviewer from submitting an application evaluation that is incomplete. As an example, the field that reviewers use to certify that all required grant documents have been reviewed is a required field. Also, data fields linked to particular responses provided in other data fields are designated as required fields.	Closed by GAO on 3.15.13.

#	Grant Application Processing and Award	Date Documentation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
2	Develop and implement procedures to carry out and document management's review and approval of the grant evaluation and award decisions.	December 2010	Real time observation of LSC Grants	The following changes were incorporated for the 2011 grant decision cycle: LSC grants has been revised to include a page for the LSC Vice President for Programs and Compliance and a page for the LSC President to use in certifying the meeting(s) held with OPP and OCE management to discuss the evaluation process, and OPP and OCE management recommendations. • The Vice President's page includes a funding recommendation for the grant Applicant and the President's page includes a line for certifying the funding decision for each Applicant. Funding decisions were completed in December 2010.	Closed by GAO on 3.15.13.
3	Conduct and document a risk-based assessment of the adequacy of internal control of the grant evaluation and award and monitoring process from the point that the Request for Proposal is created through award, and grantee selection.	Ongoing.	Documentation of the risk based internal control assessment of the process and any related risk remediation efforts.	LSC has engaged an outside expert to develop and perform a full evaluation and assessment of the competitive grants process. 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.	Closed by GAO on 3.15.13.
4	Conduct and document a cost benefit assessment of improving the effectiveness of application controls in LSC Grants such that the system's information capabilities could be utilized to a greater extent in the grantee application evaluation and decision-making process.	November 2010	Cost benefits assessment. Real time observation of the required fields, certs etc. in LSC Grants Evidence of the continuous internal evaluation by staff.	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. 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.	Closed by GAO on 8.12.13.

#	Grant Application Processing and Award	Date Documentation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
Grantee Oversight Activities					
5	Develop and implement procedures to ensure that grantee site visit selection risk criteria are consistently used and to provide for summarizing results by grantee.	August 16, 2010	Evidence of outside labor counsel review and implementation.	LSC policy reflecting risk criteria used by OPP and OCE for selecting grantee site visits has been issued and posted on LSC website. Both offices have prepared summarized results of the selection process by grantee for the 2013 grant cycle.	Provided GAO with LSC's policy on grantee site visit selection risk criteria and close-out request on 10.8.13. Currently under GAO review.
6	Establish and implement procedures to monitor OCE grantee site visit report completion against the 120 day time frame provided in the OCE Procedures Manual.	April 2012	Evidence of outside labor counsel review and implementation.	OCE has developed an annual tracking document that includes comprehensive information on grantee site visits, and reporting date and issuance (OCE/OPP combined visit list). Outside labor counsel has reviewed LSC's response.	Closed by GAO on 3.15.13.
7	Execute a study to determine an appropriate standard timeframe for OLA opinions to be developed and issued. Develop and implement procedures to monitor completion of OLA opinions related to OCE site visits against the target time frame for issuing opinions.	August 20, 2010	Copy of study and new OLA Opinions Protocol. Also, evidence of implementation of the new protocol.	Office of Legal Affairs (OLA) issued a new Opinions Protocol that sets forth the procedures and processes to be followed in the development and issuance of both Advisory and Internal Opinions. As part of this effort, OLA implemented appropriate timeframes for response to requests for opinions.	Closed by GAO on 3.15.13.

#	Grant Application Processing and Award	Date Documentation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
8	Develop and implement procedures to provide a centralized tracking system for LSC's recommendations to grantees identified during grantee site visits and the status of grantees' corrective actions.	August 2011	Evidence of procedures and implementation of the centralized tracking system for LSC recommendations.	Both OPP and OCE currently monitor recommendations and corrective actions through separate processes in each office. LSC has implemented a method of monitoring the status of top tier recommendations from OPP program quality visits in LSC Grants. The system requires grantees to discuss the status of the implementation of the report recommendations in their annual competition or renewal applications.	Closed by GAO on 3.15.13.
Performance Management					
9	Develop and implement procedures to link performance measures (1) to specific offices and their core functions and activities, and (2) to LSC's strategic goals and objectives.	Ongoing	Evidence of procedures and sustainable implementation.	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. LSC has drafted department procedures to identify performance measures for each office within LSC annually and to link these measures to LSC's strategic goals and objectives.	To be submitted to GAO by 10.31.13.
10	Develop and implement procedures for periodically assessing performance measures to ensure they are up-to-date.	Ongoing	Evidence of implementation.	LSC will develop and implement procedures to periodically assess performance measures after a new strategic plan is finalized. LSC has drafted procedures to identify departmental performance measures that include a schedule for assessing performance measures and ensuring they are up to date.	To be submitted to GAO by 10.31.13.
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. LSC has drafted a Strategic Human Capital Plan for use in assessing LSC's staffing needs.	To be submitted to GAO by 10.31.13.

#	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 drafting a performance management system process that will replace the performance management process described in LSC's Employee Handbook. GAO has notified LSC that it does not require a two consecutive years of implementation before close-out. GAO has confirmed that the only remaining requirement needed to close out this recommendation is that LSC submit a performance management system plan.	Employee Handbook changes require Board approval. Management will submit the proposed process to the appropriate Board committee in the 4th quarter of 2013.
Budget Controls					
13	Develop and implement a process to monitor contract approvals to ensure that all proposed contracts are properly approved before award.	October 2009	Evidence of process design and implementation.	Recommendation completed. LSC implemented new Administrative Manual procedures to better monitor contract approvals and ensure that funds are available and all contracts receive appropriate approvals prior to issuance. This policy and practice was in place prior to GAO's completing their fieldwork for this report, and a review of LSC's practices since October 1, 2009 will show that the procedures are being followed and all contracts are now being properly approved.	Closed by GAO on 10.13.2011.
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 on 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.	Recommendation completed. LSC implemented new Administrative Manual procedures to better monitor contract approvals and ensure that funds are available and all contracts receive appropriate approvals prior to issuance. This policy and practice was in place prior to GAO's completing their fieldwork for this report, and a review of LSC's practices since October 1, 2009 will show that the procedures are being followed and all contracts are now being properly approved.	Closed by GAO on 10.13.2011.
Internal Control Environment					
16	Develop and implement procedures for providing and periodically updating training for LSC management and staff on applicable internal controls necessary to effectively carry out LSC's grant award and grantee performance oversight responsibilities.	Ongoing	Evidence demonstrating implementation of procedures for providing and periodically updating training for LSC management and staff on applicable internal controls necessary to effectively carry out LSC's grant award and grantee performance oversight.	LSC developed training procedures for LSC management and staff regarding internal controls to carry out grant award competition and grantee oversight responsibilities. LSC management received first of a 3-part training series on this topic on September 6, 2012. Second session scheduled for October.	Closed by GAO on 10.13.2011.

Updated 10.3.13

#	Grant Application Processing and Award	Date Documentation Submitted to GAO	Proposed Evidence Needed by GAO (Col. Added by GAO)	LSC Implementation	Current Status
17	Establish a mechanism to monitor progress in taking corrective actions to address recommendations related to improving LSC grants award, evaluation, and monitoring.	October 2010	Evidence of implementation of the monitoring of corrective actions taken to address recommendations related to improving LSC grant award.	LSC has established a formal process to monitor and track actions taken by LSC in response to recommendations from the Government Accountability Office. This written procedure identifies the Office of Government Relations and Public Affairs as the office responsible for maintaining the tracking system and includes quarterly reporting on the status of any remediation efforts to the Board of Directors.	July 2013: Closed by GAO on 10.13.2011.

Total Number of Recommendations: 17
Total Number Closed: 12
Total Number in Process of Closure by GAO: 1
Total Number of Open Items: 5

Draft Evaluation Documents

Legal Services Corporation Board of Directors
Committee Protocols*

2013

Roles and Responsibilities of Committee Chairs

It is the responsibility of committee chairs to:

- Work with the Board leadership, members, and LSC management to develop meeting agendas to assure appropriate agenda items for each committee meeting and sufficient time on the agenda for thorough review and discussion;
- Annually, in conjunction with committee membership and the committee liaison, set a schedule of agenda subjects to be discussed for the ensuing year;
- Annually, assure that committees conduct self-evaluations;
- Annually, develop specific measurable targets and objectives for conducting committee self-evaluations;
- Coordinate with the LSC President to determine appropriate LSC staff or consultants to attend meetings;
- Set and communicate policies regarding meeting participation and attendance by both Board members and management;
- Work with management to develop appropriate communication practices;
- Regularly inform the Chairman of the Board and full Board about matters of significant strategic and financial importance that come before committees;
- Communicate any concerns regarding Board or management conduct directly and promptly to the Chairman of the Board; and
- Keep meetings focused and on schedule.

Committee Meetings

- Meetings should consist of high-level analyses and address only matters of strategic importance to the committee or the Legal Services Corporation.
- Committee Chairs, in consultation with the Chairman of the Board and members of committees, will determine the frequency and length of committee meetings.
- Committee meetings will be conducted in full accordance with the Government in the Sunshine Act [5 U.S.C. 552(b)].
- Closed committee sessions will be scheduled when necessary, in accordance with applicable laws and regulations and in full consultation with the LSC General Counsel.

Committee Meeting Materials

- Meeting materials should consist of high-level analyses and address only matters of strategic importance to the committee or the Legal Services Corporation.
- Meeting materials will be sent to committee members and the full Board no later than 7 days in advance of a meeting.

Roles and Responsibilities of Committee Members

It is the responsibility of committee members to:

- Read all materials prior to attending a meeting to conserve meeting time and focus discussion on questions or comments committee members have about the materials.
- Coordinate requests for more information on and questions regarding meeting materials with committee chairs.
- Consult with the committee chairs regarding committee members' trips or visits to LSC programs or headquarters on the behalf of the committee. (Note that Board travel must be approved by the Corporate Secretary.)

Roles and Responsibilities of Committees

Each committee will:

- Maintain an accurate committee charter which outlines the committee's duties, responsibilities, and procedures.
- Review its committee charter annually.
- Any recommendation for changes/improvements to the charter will be voted on by the committee and, if approved, forwarded to the full Board for approval.
- Annually, conduct an evaluation of its performance and report findings to the Governance and Performance Review Committee. The evaluation should include the annual review of the committee charter, and the committee members' evaluations.
- To protect the confidentiality of individual committee members, the self-evaluations may be completed without identification and only aggregate committee scores will be reported to the Governance and Performance Review Committee.

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*Based on the General Board Committee Protocols of the American Red Cross Board of Governors, 2009

LSC
America's Partner For Equal Justice

Legal Services Corporation

Board of Directors

Board-Evaluation*

*Adapted from a form written by Carter McNamara, MBA, PhD, Authenticity Consulting, LLC. Copyright 1997-2008. Field Guide to Developing and Operating Your Nonprofit Board of Directors.

November 2013

Name: _____ _____ **Date**: _____

LSC Board of Directors Evaluation Tool* 2013

Please indicate your level of agreement or disagree with the following statements:
Use the following scale: 1=Strongly Agree; 2=Agree; 3=Disagree; 4=Strongly Disagree

1. The Board has a full and common understanding of LSC's mission and procedures, and the roles and responsibilities of the Board; Board members are involved and interested in the Board's work. ☐
   Comments:

2. The structural pattern of LSC's governance (Board, Committees, President, Officers, and staff) is clear. ☐
   Comments:

3. The Board has clear goals and measurements resulting from relevant and realistic strategic planning; the Board regularly monitors and evaluates progress toward strategic goals and program performance.
   Comments:

4. The Board receives regular and timely reports on finances, budgets, program performance, grantee issues, and other important matters. ☐
   Comments:

5. The Board provides input to and annually approves the budget request to Congress. ☐
   Comments:

6. The Board effectively represents LSC to the community.
   Comments:

7. Board meetings facilitate focus and progress on important organizational matters ☐
   Comments:

8. The Board has an adequate opportunity to evaluate the LSC President, Officers and Inspector General annually.
   Comments:

9. Board adheres to standards of ethics and conduct. ☐
   Comments:

10. Board members possess the skills and knowledge to carry out their duties.
    Comments:

Name: _____ _____ **Date**: _____

LSC Board of Directors Evaluation Tool*

Please list three to five areas/issues on which you believe the board should focus its attention in the next year. (Please be as specific as possible.)

1.

_____

_____

_____

2.

_____

_____

_____

3.

_____

_____

_____

4.

_____

_____

5.

_____

_____

_____

Name: _____ _____ **Date**: _____

Self-Evaluation

	Yes	No
1. Do I understand LSC's mission?	◯	◯
2. Am I knowledgeable about LSC's programs and services?		
3. Do I follow trends and important developments related to LSC?	◯	◯
4. Do I read and understand LSC's financial statements?		
5. Do I have a good working relationship with the LSC Board Chair?	◯	◯
6. Do I have a good working relationship with the LSC President?		
7. Do I prepare for and participate in board meetings and committee meetings?	◯	◯
8. Do I act as a goodwill ambassador for LSC in my community?		
9. Do I find serving on the Board to be a satisfying and rewarding experience?	◯	◯

What factors contributed to my performance or lack of performance in the areas above? (Please be specific.)

_____

_____

_____

What would I need to maintain/increase my level of board commitment?

_____

_____

_____

Other comments or suggestions that will help the board increase its effectiveness.

_____

_____

_____

LSC
America's Partner For Equal Justice

Legal Services Corporation

Board of Directors

Committee Evaluation*

*Based on the General Board Committee Protocols of the American Red Cross Board of Governors, 2009

November 2013

Name: _____ **Committee**: _____ **Date**: _____

Self Evaluation Tool* 2013

Goals or Purpose of Committee

1. Committee members understand the goals and purpose of our committee; committee members agree on the goals and purpose of the committee.

❑ 1 ❑ 2 ❑ 3 ❑ 4
Strongly Agree Strongly Disagree

Comments:

2. There is alignment between our committee's goals and purposes and the actions taken and/or the decisions made by the committee.

❑ 1 ❑ 2 ❑ 3 ❑ 4
Strongly Agree Strongly Disagree

Comments:

3. Our committee has responded effectively and appropriately to issues of immediate concern brought before it; our committee has made significant progress on long-term strategic issues related to its goals and purposes.

❑ 1 ❑ 2 ❑ 3 ❑ 4
Strongly Agree Strongly Disagree

Comments:

Support for the Committee

4. Our committee has adequate resources (for example, staff time and expertise) to support its function.

❑ 1 ❑ 2 ❑ 3 ❑ 4
Strongly Agree Strongly Disagree

Comments:

Time and Location of Meetings

5. Our committee meetings are held regularly and with appropriate frequency.

❑ 1 ❑ 2 ❑ 3 ❑ 4
Strongly Agree Strongly Disagree

Comments:

6. The length of our committee meetings is appropriate and respectful of the agenda. We consistently use our meeting time well; issues get the time and attention proportionate to their importance.

❑ 1 ❑ 2 ❑ 3
Strongly Agree Strongly Disagree

Comments:

Name: _____ **Committee**: _____ **Date**: _____

7. We receive the meeting agenda and materials sufficiently in advance of the meeting to allow for appropriate review and preparation.

❑ 1 ❑ 2 ❑ 3 ❑ 4

Strongly Agree Strongly Disagree

Comments:

Recording/Minutes

8. The minutes of our meetings are accurate and reflect the discussion, next steps and/or action items articulated by the members.

❑ 1 ❑ 2 ❑ 3 ❑ 4

Strongly Agree Strongly Disagree

Comments:

Membership

9. Our committee membership represents the talents and skills required to fulfill the goals and purposes of the committee. Our committee members come to meetings prepared and ready to contribute.

❑ 1 ❑ 2 ❑ 3 ❑ 4

Strongly Agree Strongly Disagree

Comments:

10. Our committee members treat each other with respect and courtesy.

❑ 1 ❑ 2 ❑ 3 ❑ 4

Strongly Agree Strongly Disagree

Comments:

11. As a general rule, when I speak I feel listened to and that my comments are valued.

❑ 1 ❑ 2 ❑ 3 ❑ 4

Strongly Agree Strongly Disagree

Comments:

General Comments

12. What I like the most about our committee meetings?

13. What I would like to see improve at our committee meetings?

14. What areas should the committee focus on in the future?

LSC Conflicts of Interest Policy and Resolution

OFFICE OF LEGAL AFFAIRS

MEMORANDUM

TO: Governance & Performance Review Committee

FROM: Ronald S. Flagg, Vice President and General Counsel *rsf*

DATE: October 7, 2013

SUBJ: Proposed Revisions to LSC Conflicts of Interest Policy

This memorandum addresses proposed revisions to the LSC Conflicts of Interest Policy ("Conflicts Policy").

Management is currently reviewing and updating the Corporation's internal policies and procedures. The purpose of these reviews is at least two-fold:

- First, to evaluate and, where warranted, amend LSC's policies with a goal of putting in place a set of policies that reflects best practices among non-profit and grant-making organizations; and
- Second, to consolidate the numerous sources of internal guidance at LSC to facilitate access to the Corporation's policies by its employees and the public.

On March 24, 2008, the Board of Directors ("Board") adopted the LSC Code of Ethics and Conduct ("Code of Conduct"). The Code of Conduct applies to all Directors, officers, and employees of the Corporation, and it includes a provision on conflicts of interest. *See* Section IV, Conflicts of Interest. Upon reviewing the current conflicts of interest provision in the Code of Conduct, Management determined that the policy would benefit from substantial revisions to provide greater clarity and guidance to Directors, officers, and employees. Furthermore, conflicts of interest guidance is currently scattered in a number of places, including the Code of Conduct, LSC's Bylaws, and LSC's Employee Handbook. Management believes it would be best to create a single, comprehensive conflicts of interest policy.

Management, working cooperatively with the Office of Inspector General ("OIG"), has revised the Conflicts Policy, as reflected in the attachment hereto. The following highlights key revisions:

- Adding a purpose statement;
- Adding a section on the scope of the policy; broadening the scope to include non-director members of Board committees; identifying circumstances where the Conflicts Policy may apply to immediate family members of Directors, officers,

and employees depending on the nature of the conflict or potential conflict; and providing an illustrative list of the types of matters to which the Conflicts Policy applies;

- Adding a "Definitions" section with a more detailed definition of "conflict of interest," and including definitions for "immediate family member," "fraud," "waste," and "abuse";
- Providing examples of activities and relationships to illustrate the types of conflicts or potential conflicts of interest that should be avoided and disclosed;
- Providing more detailed reporting requirements and procedures, including the addition of an appeals process and a separate process for officers and employees of the OIG;
- Adding a "Confidentiality" provision for reporting conflicts or potential conflicts of interest, providing that confidentiality will be maintained to the extent practicable, but not guaranteed;
- Adding a provision against retaliation for reporting conflicts or potential conflicts of interest involving another Director, officer, or employee in good faith;
- Adding a provision to address violations of the Conflicts Policy;
- Incorporating LSC Act and Employee Handbook provisions on outside employment, and broadening the scope to cover volunteer activities as well;
- Incorporating the Employee Handbook provision on use of LSC property and services;
- Adding a section on completion of the conflict of interest questionnaire by officers and employees, and the annual disclosure of outside interests of Board members pursuant to the LSC Bylaws; and
- Adding a section on interpretation of the Conflicts Policy.

With these proposed revisions, the Conflicts Policy is nearly as lengthy as the current entire Code of Conduct itself. As described above, Management is currently in the process of reviewing all of LSC's policies and procedures and intends to consolidate them into a comprehensive employee manual. Once that consolidation process is completed, the revised Conflicts Policy, if adopted by the Board, will be included in the consolidated manual. In the meantime, subject to Board Approval, the revised Conflicts Policy will be incorporated into the Code of Conduct and will be available to LSC employees and the public on the LSC website.

CONFLICTS OF INTEREST POLICY

1. Purpose

The purposes of this policy are to protect the Legal Services Corporation ("LSC") and to provide guidance to LSC's Board of Directors, officers, and employees in identifying and handling any conflicts and potential conflicts of interest affecting the interests of LSC.

2. Statement of Policy

Members of the Board of Directors ("Directors"), officers, and employees are to avoid legal, financial, personal, or other conflicts and potential conflicts of interest involving LSC, to disclose any such conflicts that arise, and to remove themselves from a position of decision-making authority or influence on decisions or actions with respect to any conflict situation involving LSC.

In accordance with § 1005(c) of the LSC Act and Section 3.05 of the LSC Bylaws, Directors may not participate in any decision, action, or recommendation with respect to any matter which directly benefits such Director or pertains specifically to any firm or organization with which such Director is then associated or has been associated within a period of two years.

3. Scope

This policy applies to all LSC Directors, officers, and employees acting in their official capacity. Employees of the Office of Inspector General ("OIG") are covered by this policy, except as otherwise indicated herein. This policy also applies to non-Director members of committees of the Board of Directors. Any reference to "Directors" in this policy includes non-Director members of Board committees with respect to their participation in, and any action they may take in connection with, LSC-related activities. Depending on the nature of the conflict or potential conflict, this policy may also apply to immediate family members of LSC Directors, officers and employees. This policy applies to all LSC matters, including but not limited to grants, contracts, purchases, leases, investments, or other commitments of LSC resources, and personnel matters.

4. Definitions

Conflict of Interest: A conflict of interest exists when an outside interest, activity, or relationship influences or appears to influence the ability of a Director, officer, or employee to exercise objectivity, or impairs or appears to impair his/her ability to perform his/her responsibilities as a Director, officer, or employee impartially and in the best interests of LSC. A conflict of interest occurs when:

- The Director, officer, employee, or any immediate family member has the opportunity to influence LSC's grant-making, business, administrative, or other decisions or actions in a manner that could lead to personal gain or advantage;

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- The Director's, officer's, or employee's impartiality or duty of loyalty to LSC is impaired or appears to be impaired by the existence of a relationship with another person or entity; or
- The Director, officer, or employee, or any immediate family member has a potential or existing financial or other interest which impairs or appears to impair independence in the discharge of responsibilities to LSC.

Immediate Family Member: For purposes of this policy, the term "immediate family member" includes spouse, partner, parents, children and their spouses, siblings and their spouses, and other members of the household. Also included are persons in those categories as step-relations.

Fraud: A false representation of a material fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives another so that s/he acts, or fails to act, to her/his detriment.

Waste: Waste involves not receiving reasonable value for money, or the dissipation of assets or resources, in connection with any Corporation-funded activities due to an inappropriate act or omission by persons with control over or access to Corporation resources. Waste does not necessarily involve a violation of law, and can arise from mismanagement, inappropriate or irresponsible actions, and the failure to exercise reasonable care and prudence in dealing with corporate assets and activities.

Abuse: Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse also includes misuse of authority or position for one's personal financial interests or those of an immediate family member or business associate. Abuse does not necessarily involve fraud or violation of laws, regulations or provisions of a contract or grant agreement.

5. Examples of Conflict of Interest Activities and Relationships to be Avoided

The following activities and relationships illustrate the types of conflicts or potential conflicts of interest that should be avoided and disclosed, as applicable, in accordance with this policy. This list is representative only, and is intended to provide guidance. It is not all-inclusive.

- *Self-benefit:* A Director, officer, or employee using his/her position or relationship within LSC to promote his/her own interests or those of immediate family member(s). This includes use of confidential or privileged information gained in the course of employment with, or as a Director of, LSC for personal benefit or gain or for the personal benefit or gain of immediate family member(s).
- *Other business relationships and dealings:* Participating in deliberations or actions resulting in the approval of a grant or contract with an organization in which a Director, officer, or employee or immediate family member(s) has a financial or other interest or relationship, including an organization with whom the Director, officer or employee or

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immediate family member(s) is negotiating over prospective employment or has an arrangement regarding prospective employment.

- *Other organizational relationships and dealings:* Participating in deliberations or actions regarding policy proposals or advocacy positions advanced by organizations in which a Director, officer, or employee is an active participant (e.g., serving as an official of the organization, as a committee or subcommittee chairperson, as a spokesperson, or in another capacity going beyond mere membership) or with respect to proposals or positions advanced by an outside organization that the Director, officer, or employee has been involved in preparing.
- *Use of LSC property for personal advantage:* Using or taking LSC resources, including facilities, equipment, personnel, and supplies, for private use (except as allowed under LSC policy for *de minimis* or emergency purposes) or other unauthorized activities.
- *Matters involving grantees, subgrantees, and grant applicants:* A Director, officer, or employee who has a position or association with, or connection to, a grantee, subgrantee, or grant applicant, or had such a position within the past three (3) years, participating in discussions or decisions relating to the grantee or grant applicants, about topics such as grant applications, reviews, questioned cost proceedings, personnel decisions, sanctions, or program performance evaluations. Possible positions, associations, or connections may include, but are not limited to: serving on a board or committee; serving as a former staff member or consultant; any financial ties to a program or a staff member; being or having been privy to confidential or other non-public information regarding LSC grantees; or having a significant, personal relationship with a member of program staff.
- *Gifts:* Personally accepting anything of value from an organization or individual that has a grant application, policy proposal, advocacy position paper, or contract proposal pending before LSC, or currently has a grant or contract from LSC, or has received a grant or contract from LSC within the preceding five years. (Items having a value of less than $20.00 are excepted in accordance with the provisions of the Employee Handbook.)
- *Influence peddling:* A Director, officer, employee, or immediate family member(s) soliciting a benefit from an outside organization in exchange for using influence to advance the interests of that organization within LSC.
- *Property transactions:* Directly or indirectly leasing, renting, trading, or selling real or personal property to or from LSC, or benefitting from such a transaction.
- *Recording or reporting false information:* Misrepresenting, withholding, or falsifying relevant information required to be reported to external parties or used internally for decision-making purposes, in order to derive personal benefits.

6. Reporting Requirements and Procedures

Reporting requirements are different for: (1) LSC officers and employees; (2) OIG officers and employees; and (3) Directors.

LSC Officers and Employees

Any officer or employee who has or believes he/she has a conflict or potential conflict, or who becomes aware of a conflict or potential conflict of interest involving another individual, must promptly disclose it to his/her supervisor, the LSC Ethics Officer, or one of the following

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individuals within LSC: the General Counsel, the Director of Human Resources, the Vice President for Grants Management, or the Inspector General.[1] The supervisor, or any of the other individuals identified above, shall promptly notify the Ethics Officer of any conflicts or potential conflicts as well as any actions taken to resolve the issues. Officers or employees who believe it is not possible to avoid a conflict of interest must make full written disclosure of the pertinent circumstances to their supervisor or any of the other individuals identified above, who shall bring it to the attention of the Ethics Officer. The Ethics Officer shall notify the OIG of reported conflicts or potential conflicts of interest involving an officer of the Corporation or an office director, and of any conflicts or potential conflicts that involve violations of laws, rules, or regulations, fraud, waste, abuse, or mismanagement, or other serious wrongdoing.

Except as otherwise provided herein, the Ethics Officer will make a determination as to whether a conflict or potential conflict of interest exists and what actions, if any, are necessary to resolve the issue. In the event that the officer or employee wishes to appeal the Ethics Officer's decision, he/she may submit a written appeal to the LSC President within ten (10) business days of receiving the Ethics Officer's written decision.

Conflicts or potential conflicts of interest involving the LSC Ethics Officer must be disclosed to the LSC President, who will make a determination as to whether a conflict or potential conflict of interest exists and what, if any, actions are necessary to resolve the issue. The Ethics Officer may appeal the President's decision to the Board of Directors.

The LSC President shall disclose any conflict or potential conflict of interest involving the President to the Ethics Officer for determination and resolution; the Ethics Officer shall render a written decision and report his/her decision to the Board. The LSC President may submit a written appeal to the Board of Directors within ten (10) business days of receiving the Ethics Officer's written decision. The Ethics Officer will be notified of the Board's decision and any action taken for purposes of record-keeping.

OIG Officers and Employees

Any OIG officer or employee who has or believes he/she has a conflict or potential conflict, or becomes aware of a conflict or potential conflict of interest involving another individual, must promptly disclose it to his/her supervisor, the OIG Ethics Officer, or other appropriate individual within the OIG (e.g., an Assistant Inspector General). The supervisor or other individual referenced above shall promptly notify the OIG Ethics Officer of any conflicts or potential conflicts as well as any actions taken to resolve the issues. Employees who believe it is not possible to avoid a conflict of interest must make full written disclosure of the surrounding

[1] Directors, officers, and employees should report fraud, waste, abuse, and violations of LSC laws or regulations to the OIG. The OIG maintains a hotline to receive reports of suspected fraud, waste, or abuse. More information for the OIG Hotline is available at http://www.oig.lsc.gov/org/hotline.htm. Reports to the OIG Hotline can be made via:

- Telephone: 1-800-678-8868 or 202-295-1670
- E-mail: hotline@oig.lsc.gov
- Online: Form is available at http://www.oig.lsc.gov/hotlineform/hotline.aspx
- Fax: 202-337-7155
- Write: PO Box 3699, Washington, DC 20027-0199

circumstances to their supervisor or any of the other individuals identified above, who shall bring it to the attention of the OIG Ethics Officer. The OIG Ethics Officer will make a determination as to whether a conflict or potential conflict of interest exists and what actions, if any, are necessary to resolve the issue. In the event the OIG officer or employee wishes to appeal the OIG's Ethics Officer's decision, he/she may submit a written appeal to the Inspector General within ten (10) business days of receiving the OIG Ethics Officer's decision.

Conflicts or potential conflicts of interest involving the OIG Ethics Officer must be disclosed to the Inspector General, who will make a determination as to whether a conflict or potential conflict of interest exists and what, if any, actions are necessary to resolve the issue.

Directors

Any Director who has or believes he/she has a conflict or a potential conflict of interest, or who becomes aware of a conflict or potential conflict of interest within LSC, shall promptly bring it to the attention of the Ethics Officer who will make a determination as to whether a conflict or potential conflict of interest exists and what actions, if any, are necessary to resolve the issue. If a Director wishes to appeal the Ethics Officer's written decision, he/she may submit a written appeal to the Board of Directors within ten (10) business days. Whenever a Director has a conflict or potential conflict of interest in any matter under the Board of Directors' consideration, the Director must fully disclose the nature of the interest and abstain from discussion and voting on the matter. Any matter involving a conflict or potential conflict of interest shall be approved only when a majority of disinterested Directors determine that it is in the best interest of LSC to do so. The minutes of the meetings at which such votes are taken shall record such disclosure, abstention, and voting results.

If a Director becomes aware of a personal affiliation or involvement (including seeking future employment) with an organization applying for or receiving an LSC grant or contract otherwise seek LSC business, or any such affiliation or involvement of an immediate family member of the Director, the Director must fully disclose the nature of such affiliation or involvement in writing to the Ethics Officer and the Board of Directors. The Ethics Officer, in conjunction with the Board of Directors, shall make a determination about any appropriate limitations on the Director's involvement in any decision related to the LSC grant or business.

The Ethics Officer and Inspector General shall be notified of any reported conflict or potential conflict of interest involving a Director.

7. Confidentiality

Reports of conflicts or potential conflicts of interest may be submitted on a confidential basis and will be kept confidential to the extent practicable. Identity or other information will be disclosed only as reasonably necessary for purposes of this policy or when legally required; however, confidentiality is not guaranteed.

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8. No Retaliation

LSC will not discharge, threaten, or discriminate against any Director, officer, or employee in any manner for reporting conflicts or potential conflicts of interest involving another Director, officer, or employee in good faith. Any such act of retaliation shall be reported immediately to the Inspector General. The Ethics Officer (or the OIG Ethics Officer for OIG employees) will also be informed.

9. Violations of Policy

Violation of this policy will be treated as serious misconduct. Please notify the Ethics Officer should you have a question or wish to report a potential or actual conflict of interest. Misinterpretation of this policy or lack of knowledge regarding its scope or applicability will not excuse a violation.

10. Outside Employment and Volunteer Activities of Officers and Employees

In an effort to prevent conflicts or potential conflicts of interest and ensure that outside commitments do not infringe on any officer's or employee's official LSC duties and responsibilities, an employee paid in Band 3 or above may engage in outside employment or in volunteer activities relating to the provision of legal services only upon written notification to his/her supervisor and the approval of the Ethics Officer, or of the OIG Ethics Officer for OIG employees. The Ethics Officer may engage in outside employment or in volunteer activities relating to the provision of legal services subject to the approval of the President. The OIG Ethics Officer may engage in outside employment or in volunteer activities relating to the provision of legal services subject to the approval of the Inspector General. LSC employees paid in Band 2 or below may engage in outside employment or in volunteer activities relating to the provision of legal services only if they notify their supervisor. Any notifications under this section should include the organization for which the work will be done, the nature of the work, the expected time commitment and remuneration, if any, to be received, as well as an evaluation of any potential conflicts of interest that could arise with LSC as a result of the officer's or employee's engagement in such activity. The supervisor must consult with the Ethics Officer (or the OIG Ethics Officer for OIG employees) for a determination as to whether a conflict of interest or potential conflict of interest exists with respect to the outside employment or volunteer activities relating to legal services of an employee paid in Band 2 or below. If a conflict of interest or potential conflict of interest exists, then the employee may engage in such outside employment or activities only upon the approval of the Ethics Officer. Please refer to § 5.4 of the LSC Employee Handbook (Outside Employment Policy) for further guidance on outside employment, and § 5.3 (LSC Property and Services) on using LSC assets for personal benefit. OIG employees may be subject to additional requirements or limitations on outside employment or activities.

In accordance with § 1005(a) of the LSC Act, LSC officers may not receive any salary or other compensation for services from any source other than the Corporation, except as authorized by the Board.

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11. Use of LSC Property and Services

Directors, officers, and employees should not use LSC property and services, or allow their use, for personal benefit. LSC property and services should only be used for purposes related to the performance of a Director, officer, or employee's official duties, for limited (*de minimis*) personal uses, or for emergency situations. Please refer to § 5.3 of the Employee Handbook (LSC Property and Services) for further guidance on using property and assets for personal benefit.

12. Conflict of Interest Questionnaire

Officers and Employees

Upon commencement of employment and annually thereafter, all officers and employees must complete a "Conflict of Interest Questionnaire." Officers and employees are required to update the Conflict of Interest Questionnaire promptly whenever there has been a change in the employee's affiliations or responses to questions. Officers and employees must disclose all of their affiliations, as requested by the form, even if there is no current conflict of interest. OIG employees may be subject to a separate or additional conflicts review process.

Directors

In accordance with § 3.05 of the LSC Bylaws and *Guidelines on the Annual Disclosure of Outside Interests of the LSC Board of Directors*, upon assuming office and annually thereafter, Directors must file a disclosure statement identifying any firm or organization with which he/she is or has been within the prior two years associated and the nature of the association. In the event the association is a result of a financial or ownership interest, that fact must be reflected in the disclosure statement, but the Director need not reveal the amount of financial interest.

13. Interpretation

This policy cannot describe all conflicts of interests that may arise involving LSC. LSC Directors, officers, and employees must use good judgment to avoid any conflicts or appearances of impropriety. If you have any questions about this policy or its application, please promptly seek advice from the appropriate Ethics Officer.

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RESOLUTION

ADOPTING A REVISED CONFLICTS OF INTEREST POLICY

WHEREAS, by Resolution #2008-007, the Legal Services Corporation ("LSC" or "Corporation") Board of Directors ("Board") adopted the *Code of Ethics and Conduct* ("Code of Conduct") to provide guidance to Board members, officers, and employees regarding the Corporation's expectations for standards of ethics and conduct;

WHEREAS, Management has reviewed the conflicts of interest provision in the Code of Conduct; and

WHEREAS, Management has determined that the Corporation would benefit from a more comprehensive conflicts of interest policy that provides greater clarity and guidance to the Directors, officers, and employees regarding conflicts of interest and recommends adoption of the attached Conflicts of Interest Policy;

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Directors adopts the attached Conflicts of Interest Policy.

Adopted by the Board of Directors
On October 22, 2013

_____
John G. Levi
Chairman

Attest:

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

IV. Institutional Advancement Committee

INSTITUTIONAL ADVANCEMENT COMMITTEE

October 20, 2013

Agenda

OPEN SESSION

1. Approval of agenda
2. Consider and act on LSC's case statement for fundraising
3. Discussion of structures for LSC's 40th Campaign Cabinet and Honorary Committee
4. Public comment
5. Consider and act on other business

CLOSED SESSION

6. Discussion of prospective funders for LSC's 40th anniversary celebration and development activities
7. Discussion of prospective members for LSC's 40th Campaign Cabinet and Honorary Committee
8. Consider and act on adjournment of meeting

LSC Case Statement for Fundraising

October 8, 2013

TO: Institutional Advancement Committee

FROM: Wendy Rhein

RE: Suggested Change in Term for Fellowships

The prior version of the LSC Case Statement for fundraising circulated in advance of the Committee's meeting of October 1 recommended a one-year fellowship program as one of the LSC funding priorities.

We have reviewed proven models for fellowships, including Equal Justice Works, Skadden, and AmeriCorps, and suggest that LSC's fellows serve two-year terms instead of a one-year terms. With a two-year commitment, the time that grantees spend on training and orientation of fellows will yield a larger return, and fellows will be more engaged in the work of the grantee program and will be able to have a more significant impact. The experience of LSC staff who have worked on fellowship programs has informed this suggestion as well.

LSC will undertake a brief consultative process with a sampling of our grantees to obtain their assessment of the optimal term for fellowships. We will have that information for the October board meeting and will share results with you at that time.

Legal Service Corporation at 40: Case Statement

Anna is a domestic violence survivor. When she finally fled from her abusive husband she needed an order of protection to keep him from hurting her again. She cannot afford an attorney and is overwhelmed by the legal process. Her husband has an attorney, leaving Anna to represent herself and face her abuser alone.

Frank served his country through two tours in Iraq. When he came home, he tried to access mental health benefits through the VA and was turned away. He doesn't know where to go for help.

Edna and her husband, Joe, had lived in their home for 30 years before falling victim to a mortgage scam. Now they are being threatened with foreclosure, eviction, and have no idea what to do. They need help from an attorney quickly before they lose their home.

Anna, Frank, Edna and Joe are among the more than 61 million Americans who are eligible for civil legal aid in this country, almost 1 in 5 of our fellow citizens. Without this aid, they will not have the protection of a lawyer in disputes that could place their children, their safety, their homes, or their financial well-being at risk.

The **Legal Services Corporation (LSC)** is the nation's largest single funder of civil legal aid for low-income Americans. In its 40th year, LSC is launching a groundbreaking campaign to fund new projects and programs that will leverage the work of civil legal aid providers around the country. This campaign focuses on expanding access to justice through technology, new service initiatives, and leadership development.

Service Initiatives

Federal funding for LSC grantees has fallen while the number of people eligible for civil legal aid through LSC grantees has grown. In the last three years, LSC-funded legal aid programs have had to reduce their workforce by 10 percent, including attorneys and paralegals who offer vital legal support for clients. As part of its 40th anniversary, LSC will launch three fellowship programs to attract and fund new lawyers and law students to serve clients in need.

1. **Fellows**

   LSC will support 25-35 law school graduates in largely two-year, possibly one-year competitive fellowship program. Each fellow will receive an annual salary commensurate with the first-year attorney salary of a legal aid lawyer, training and orientation prior to placement, and a laptop computer. In the initial phase, LSC grantee applicants and their fellowship candidates will propose projects that will have a significant impact on how the grantee's clients are served. These fellowship projects will focus on innovation, creativity, and locally-driven ideas from LSC grantees LSC intends to encourage projects that will:

   - Promote outreach and relationship-building in underserved communities
   - Build multidisciplinary partnerships with other service providers
   - Facilitate assessments of community needs to identify services of most value to clients.

   Investment: $2,005,500 per year, ($57,300 per fellow) with a six- year investment of $12,033,000

2. **Rural Legal Summer Corps**

   LSC wants to establish a Rural Legal Corps of law students to

   - Increase the availability of legal services to low-income people in rural areas;
   - Develop the students' skills in serving low-income clients and expand their awareness of the legal needs of people in rural poverty;
   - Increase rural legal services programs' ability to recruit highly qualified law students and new attorneys;
   - Increase collaboration between law schools and rural legal services programs.

   LSC aims to place 40 fellows each summer in rural legal aid programs. This Corps will be open to law students who have completed their second year of law school at the time the summer fellowship starts. Corps members will begin their summer with a four-day intensive national training program conducted by a poverty law expert. Each Corps member will receive a stipend, travel expenses and accommodations for the training, and travel expenses to and from the placement site. LSC seeks funding for a minimum of five years to launch this program.

   Investment: $520,000 per year, ($13,000 per Corps member) and a five-year investment of $2,600,000

3. **Senior Pro Bono Fellows**
   LSC will launch a one-year fellowship program for senior or emeritus attorneys to support pro bono programs in the legal aid organizations it funds Fellows will make contacts with pro bono lawyers, engage with local firms and corporate legal departments, and promote sustainable pro bono systems within grantee organizations. Each fellow will receive a small annual stipend of $15,000, and the host organization will receive $15,000 to start the program. This program will be initiated in 40 grantee programs.

   Investment: $1,200,000 per year, five-year investment of $6,000,000

Technology

LSC champions the use of innovative technology by legal aid providers to provide efficient, effective, and high-quality assistance to the more than 61 million eligible Americans.

Most legal needs surveys in the United States indicate that no more than 20 percent of low-income people with civil legal problems are able to get help. The power of the Internet, sophisticated software programs, personal computers and mobile devices -- combined with the development of high-quality legal information and tools -- can broaden the reach of legal services practitioners and expand access to legal assistance for people who cannot afford a lawyer.

In 2000, LSC launched its Technology Initiative Grants (TIG) and since then has provided more than $40 million in 528 grants. TIG has supported projects to develop, test, and replicate technologies that improve client access to high quality legal information and assistance. It has also helped programs enhance their information technology infrastructure. These projects use a broad range of technologies -- including mobile, cloud computing, big data, and automated document assembly -- to make the delivery of legal services to low-income persons more efficient and effective.

LSC hosts an annual technology conference for TIG recipients and other experts in the field. In 2013, the Technology Summit issued a report with several recommendations that would change the landscape for those in need of civil legal aid. LSC wants to build on and expand the technological innovation it has fostered over the last decade.

1. **Integrated Service-Delivery System**
   Technology can play a vital role in enabling the provision of some level of legal assistance to all people living in poverty in the United States when they need it. An Integrated Service-Delivery System (ISDS) will create a platform giving every state a statewide online access point for persons seeking assistance with a civil legal issue. The portal employs a sophisticated algorithm to direct the user to an appropriate type of assistance for the user's need. The system will employ a document-assembly application for court-approved forms using "smart document" tags and will be linked to a website for access to detailed information about the legal principles

and terms underlying the form. The portal will also link to legal aid programs, pro bono lawyers, court self-help centers, libraries, and courts' electronic filing and fee paying systems.

Investment: $2,500,000 over three years

2. **Technology Replication Fund**
   For thirteen years, LSC has made grants to civil legal aid programs to create innovations in technology that result in more efficient and effective client services. Those innovations can be expensive to replicate in other markets. LSC wants to create a Replication Fund that will capitalize on LSC's renowned Technology Innovation Grants and support grantees in taking successful innovations and replicating them in other areas of the country to reach more clients.

   Investment: $1.5 million per year, five-year investment of $7,500,000

Leadership Development

Many of the executive directors of LSC's 134 affiliated providers have worked in legal aid their entire careers; many have been executive directors for more than two decades. Approximately 80% of executive directors in LSC-funded programs have more than 30 years of experience. The long-standing leaders offer a wealth of knowledge and experience that can inform the national response to the legal needs of those living in poverty, and together with LSC's expertise in program and grants management, compliance, and fiscal management, they can continue to raise the bar of professionalism, efficiency, and excellence with leadership training and support. However the sector will soon face a leadership vacuum as many of these founders prepare to retire in the next five to ten years. We must prepare the next generation of leaders to meet the challenges of a modern legal aid program.

1. **Bi-Annual Conference**
   LSC will convene a bi-annual gathering of its grantee leadership that offers structured, substantive, peer-led working sessions that will highlight best practices, efficient use of resources, and create a vision for how to best serve those living in poverty that need legal support. The conference agenda would be led by an advisory group comprised of LSC grantees.

   Investment: $250,000 per conference, initial investment of $750,000 for 3 conferences

2. **Leadership Institute**
   LSC will create a Leadership Institute for 25 of its grantee program executive directors to come together for an intensive 12-18 month program to enhance leadership development and competencies in leading change, leading people, developing business acumen, and building collaborations. The participants will meet for two days six times over the course of the program in different parts of the country to focus on one of the core leadership competencies. Each session will follow a curriculum and use a variety of tools including 360° evaluations, readings, benchmarking activities, best business practice development, interviews, coaching, and

discussion to enhance learning and inclusion of these new skills in the workplace. The inclusive cost per participant is $18,250.

Investment: 25 participants per year: $456,250, five-year commitment of $2,281,250

Innovation, Awareness, and Research

1. **Pro Bono Innovation Match**

   In 2014, LSC will establish a Pro Bono Innovation Fund to support new and innovative projects that promote and enhance pro bono initiatives throughout the country. The Fund will leverage the federal appropriated funds to increase free legal aid to low income Americans by engaging private attorneys.

   As recommended by LSC's prestigious Pro Bono Task Force, the innovation fund will be an independent grant making program, modeled on the highly successful Technology Innovation Grant Program. Grants made to LSC funded programs will invest much needed funds in creating and maintaining robust and effective pro bono initiatives. Pro bono programs require considerable time, infrastructure, relationship-building, training, coordination, oversight and money from both the legal community and the public funders. LSC will manage this competitive grant program and provide annual grants for innovating programs.

   Investment: $1,500,000 per year, a five-year investment of $7,500,000

2. **Research**

   LSC will develop the capacity to collect and analyze essential data that will inform the legal aid community, policy makers, educators, and the public on issues currently affecting the civil legal system and those who need to access it. Research will be conducted with academic institutions for integrity of data collection and analysis on how best to a) assess the relationship between access to legal assistance and outcomes for low-income populations, in terms of i) meeting their legal needs; and ii) their perceptions of the fairness and legitimacy of the legal system; b) identify the role of court-access and pro bono legal representation in i) meeting the legal needs of low-income individuals and ii) civic engagement of providers and recipients of legal assistance; and c) identify the effective models of civic education involving legal services offices and pro bono attorneys.

   Initial investment: $500,000, five year commitment of $2,500,000

3. **Public Awareness**

   LSC will take the opportunity of its 40th year to spotlight the work of its 134 grantees across the country. LSC will coordinate events throughout the year that will bring together experts to discuss the challenges and opportunities facing civil legal aid now and in the years to

come. These events and related materials and web presence will be available to LSC grantees, others in the civil legal aid field, and to sponsors and supporters of LSC's 40th anniversary.

Investment of $1,500,000 over five years

LSC's Board of Directors has approved this multi-faceted initiative to raise funds for technology and leadership, innovation and service, during LSC's 40th anniversary year. We seek to raise capital to fund the costs associated with launching, staffing, and maintaining these programs that will have a profound impact on how civil legal services are delivered across the country.

The LSC 40th Anniversary Fund, which will include all the programs mentioned, offers ways to recognize significant contributions. A wide variety of naming opportunities is available to memorialize the achievements of leading individuals in the field, leading donors to this effort, law firms, and businesses. LSC believes that its 40th anniversary is a watershed moment – an opportunity to raise awareness of the life changing legal needs of millions of Americans living in poverty and to raise funds to forge a new level of national response to this crisis.

Help us work towards a system that indeed provides ***"justice for all."***

V. Audit Committee

AUDIT COMMITTEE

October 20, 2013

Agenda

Open Session

1. Approval of agenda

2. Approval of minutes of the Committee's July 2, 2013 meeting

3. Approval of minutes of the Committee's July 21, 2013 meeting

4. Further discussions regarding the Risk Management Plan and act on ***Resolution # 2013-0XX***

5. Oversight of Risk Management: Management discussion of Internal Financial Controls

   - Jim Sandman, President
   - Ron Flagg, General Counsel
   - David Richardson, Comptroller

6. Briefing about referrals by the Office of Inspector General to the Office of Compliance and Enforcement regarding matters from the annual Independent Public Accountants' audits of grantees

   - Jeffrey Schanz, Inspector General
   - Ronald (Dutch) Merryman, Assistant IG for Audits
   - Lora Rath, Director of Compliance and Enforcement

7. Briefing regarding Quality Control Review program for Independent Public Accountants and OIG findings

   - Jeffrey Schanz, Inspector General
   - Ronald (Dutch) Merryman, Assistant IG for Audits

8. Briefing by Office of Inspector General on Questioned Costs

- Jeffrey Schanz, Inspector General
- Ronald (Dutch) Merryman, Assistant IG for Audits
- Lora Rath, Director of Compliance and Enforcement

9. Public comment

10. Consider and act on other business

11. Consider and act on adjournment of meeting

Draft Minutes of July 2, 2013 Meeting

Legal Services Corporation
Telephonic Meeting of the Audit Committee
Open Session

Tuesday, July 2, 2013

Committee Chairman Victor B. Maddox convened an open session telephonic meeting of the Legal Services Corporation's ("LSC") Audit Committee ("the Committee") at 11:05 a.m. on Tuesday, July 2, 2013. The meeting was held in the John N. Erlenborn Conference Room, Legal Services Corporation, 3333 K Street, N.W. Washington, D.C. 20007.

The following Committee members were present:
Victor B. Maddox, Chairperson
Harry J.F. Korrell, III
Gloria Valencia-Weber
David Hoffman (Non-Director Member)
Paul L. Snyder (Non-Director Member)

Other Board Members Present:
Sharon L. Browne
Julie A. Reiskin

Also attending were:

James J. Sandman	President
Wendy Rhein	Chief Development Officer
Rebecca Fertig	Special Assistant to the President
Ronald S. Flagg	Vice President for Legal Affairs, General Counsel, and Corporate Secretary
Katherine Ward	Executive Assistant, Office of Legal Affairs
David L. Richardson	Comptroller and Treasurer
Jeffrey E. Schanz,	Inspector General
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the Inspector General (OIG)
Ronald "Dutch" Merryman	Assistant Inspector General for Audit, OIG
Thomas Coogan	Assistant Inspector General for Investigations, OIG
David Maddox	Assistant Inspector General for Management and Evaluation, OIG
Daniel Sheahan	Program Evaluation Analyst, OIG
Magali Khalkho	Resource Management Specialist, OIG
Lora M. Rath	Deputy Director, Office of Compliance and Enforcement (OCE)
Herbert S. Garten	Non-Director Member, Institutional Advancement Committee

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

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

MOTION

Professor Valencia-Weber moved to approve the agenda. Mr. Hoffman seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Professor Valencia-Weber moved to approve the minutes of the Committee's meeting of April 15, 2013. Mr. Snyder seconded the motion.

VOTE

The motion was passed by voice vote.

Committee Chairman Maddox welcomed Mr. Flagg, the new Vice President of Legal Affairs.

Mr. Snyder introduced the discussion on risk assessment and then asked LSC Management ("Management") and the Office of Inspector General ("OIG") to discuss the Corporation's risk management plan and to identify risks to be the subject of reports at future Committee meetings. Management and the OIG responded to questions and comments from Committee members. President Sandman stated that Management would continue to assess the probability and severity of various risks, as well as to provide the Committee with recommendations for allocating risk areas for reporting and oversight purposes among the different Board committees.

Mr. Hoffman led the discussion on procedures relating to OIG investigations and audit reports that result in follow-up work by the Office of Compliance and Enforcement. Mr. Merryman explained the OIG's audit and follow-up process, and Ms. Rath reported on the frequency of OIG referrals and the questioned-cost process. Mr. Merryman and Ms. Rath answered Committee members' questions.

Committee Chairman Maddox invited public comments and received none.

There was no other business to consider.

MOTION

Professor Valencia-Weber moved to adjourn the meeting. Mr. Hoffman seconded the motion.

VOTE

The motion passed by a voice vote.

The meeting of the Committee adjourned at 12:00 p.m.

Draft Minutes of July 21, 2013 Meeting

Legal Services Corporation
Meeting of the Audit Committee
Open Session

Sunday, July 21, 2013

Committee Chairman Victor B. Maddox convened an open session meeting of the Legal Services Corporation's ("LSC") Audit Committee ("the Committee") at 3:09 p.m., July 21, 2013. The meeting was held at the Warwick Hotel, 1776 Grant Street, Denver, Colorado 80203.

The following Committee members were present:
Victor B. Maddox, Chairman
Harry J.F. Korrell, III
Gloria Valencia-Weber
David Hoffman (Non-Director Member) (by telephone)
Paul L. Snyder (Non-Director Member) (by telephone)
John G. Levi, *ex officio*

Other Board members present:
Sharon L. Browne
Robert J. Grey, Jr.
Charles N.W. Keckler
Laurie Mikva
Martha L. Minow (by telephone)
Father Pius Pietrzyk
Julie A. Reiskin

Also attending were:

James J. Sandman	President
Lynn Jennings	Vice President for Grants Management
Wendy Rhein	Chief Development Officer
Richard L. Sloane	Chief of Staff and Special Assistant to the President
Rebecca Fertig	Special Assistant to the President
Ronald S. Flagg	Vice President for Legal Affairs, General Counsel, and Corporate Secretary
David L. Richardson	Comptroller and Treasurer
Carol A. Bergman	Director, Office of Government Relations and Public Affairs (GRPA)
Jeffrey E. Schanz,	Inspector General
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the Inspector General (OIG)
Ronald "Dutch" Merryman	Assistant Inspector General for Audit, OIG
Thomas Coogan	Assistant Inspector General for Investigations, OIG
David Maddox	Assistant Inspector General for Management and Evaluation, OIG
Lora M. Rath	Director, Office of Compliance and Enforcement (OCE)
Janet LaBella	Director, Office of Program Performance (OPP)

Herbert S. Garten	Non-Director Member, Institutional Advancement Committee
Allan J. Tanenbaum	Non-Director Member, Finance Committee
Jonathan D. Asher	Executive Director, New Mexico Legal Aid
Chuck Greenfield	National Legal Aid and Defender Association (NLADA)
Don Saunders	National Legal Aid and Defenders Association (NLADA)
Lisa Wood	American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID)
Meredith McBurney	American Bar Association Standing Committee on Legal Aid and Indigent Defendant (SCLAID)

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

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

MOTION

Mr. Levi moved to approve the agenda. Professor Valencia-Weber seconded the motion.

VOTE

The motion passed by voice vote.

Ms. Jennings reported on LSC Management ("Management") activities for grantee training. She explained that LSC currently provides limited training, but Management hopes to develop and begin offering more robust interactive online training tools in the next six to twelve months.

Inspector General Schanz next gave a briefing on the activities of the Office of Inspector General ("OIG"). He addressed budgetary and oversight issues involving Hurricane Sandy funds and grantee training, and he reported that the OIG extended the contract with LSC's fiscal auditors, WithumSmith+Brown, for another year.

Next, President Sandman, Mr. Flagg, Mr. Richardson, and Inspector General Schanz resumed the discussion from the Committee's July 2nd telephonic meeting regarding risk assessment by Management and the OIG. Mr. Flagg reported on changes to the risk assessment matrix and identified areas of risk that Management deemed most significant. He also presented recommendations for reporting identified areas of risk to each Board committee based on each committee's charter.

Inspector General Schanz and Ms. Rath next led the discussion regarding the Office of Compliance and Enforcement's ("OCE") follow-up to OIG investigations and audit reports. Ms. Rath presented a series of charts detailing referrals from the OIG and the progress being made on each referral. Inspector General Schanz, Mr. Merryman, and Ms. Rath answered Committee members' questions.

Chairman Maddox invited public comments. Mr. Greenfield commented that grantees spend a lot of time and LSC funds responding to inquiries from the OIG and OCE. He suggested that the OIG and Management need to communicate with each other more, particularly with respect to questioned cost matters.

There was no other business to consider.

The meeting of the Committee continued in closed session briefly.

The meeting of the Committee reconvened in open session.

MOTION

Professor Valencia-Weber moved to adjourn the meeting. Mr. Korrell seconded the motion.

VOTE

The motion passed by a voice vote.

The meeting of the Committee adjourned at 4:53 p.m.

LSC Risk Management

FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

TO: Victor B. Maddox, Audit Committee Chairman

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

DATE: October 3, 2013

SUBJECT: Risk Assessment

In advance of the July Audit Committee Meeting in Denver, LSC Management provided a draft risk matrix. The matrix included proposed assignments of different risk areas to Board committees for the purpose of oversight. The matrix was revised in light of comments made at the meeting and distributed on August 6 to the Board to solicit additional comments. The attached version of the matrix reflects the one additional comment we received.

A resolution is attached for the Audit Committee's consideration of a recommendation to the Board regarding adoption of the assignments of risk areas to Board committees for the purpose of oversight.

RISK TO LSC RESOURCES – PEOPLE

Risks			Strategies	Who is responsible?		Date of last review	Date of next review
	Probability	**Severity**		**Management**	**Board**		
Board Leadership and Governance -- Potential for problems	L	H	• Good information flow from management (including legal, financial, programmatic information) and from the OIG and outside auditors • Training of board • Orientation of new board • Evaluations/self-assessments • Sufficient staff support • Staying abreast of best board governance practices • Staying abreast of stakeholder and client concerns • Periodic review of governing documents to assure compliance and relevancy		Board, Chairman, Gov. & Performance Review Com.		
-- Board Transitions	M	M	• Board transition plan • Board orientation		Board, Chairman, Gov. & Performance Review Com.		
Management Leadership Transitions -- President	H	M	• Presidential transition plan	President	Gov. & Performance Review Com.		

RISK TO LSC RESOURCES – PEOPLE							
Risks			**Strategies**	**Who is responsible?**		**Date of last review**	**Date of next review**
	Probability	**Severity**		**Management**	**Board**		
-- Other senior leadership changes	M	M	• Transition plan	President	Gov. & Performance Review Com.		
Management/IG Relations -- Potential for problems	M	H	• Communicate, coordinate, cooperate • Regular meetings	President	Audit Com.		
Management Leadership Performance -- Preventing leadership problems	L	H	• Cohesive, effective management team • Emphasis on high standards • Regular communications with board, staff, grantees, public, OIG • Regular performance evaluations	President	Gov. & Performance Review Com		
Conflicts of Interest/Ethics Violations	L	M	• Training on ethics code • Reminders, emphasis on ethics	Ethics Officer	Audit Com.		

RISK TO LSC RESOURCES – FUNDING

Risks			Strategies	Who is responsible?		Date of last review	Date of next review
	Probability	**Severity**		**Management**	**Board**		
Adequacy of Basic Field Funding -- Insufficient funding to accomplish LSC's mission of providing equal access to justice	H	H	• Public education • Strengthen congressional relationships • Develop stronger data to support funding requests, including data on outcomes and economic benefits of legal aid	Government Relations/ Public Affairs (GRPA) Director	Finance Com.		
Adequacy of MGO Funding -- Insufficient Management and Grants Oversight funding	H	H	• Strengthen congressional relationships • Emphasize quantifying return on investment from oversight funding • Emphasize grants oversight function • Respond to and implement GAO recommendations	GRPA Director	Finance Com.		
			• Continue to assess MGO expenses to reduce any unnecessary duplication and inefficiencies	Vice President for Grants Management (VPGM)			

RISK TO LSC RESOURCES –ASSETS

Risks			Strategies	Who is responsible?		Date of last review	Date of next review
	Probability	**Severity**		**Management**	**Board**		
Internal Fraud	L	H	• Effective internal controls • IG oversight • Annual corporate audit	Treasurer	Audit Com.		
			• Staff training on ethics	Ethics Officer			
Internal Financial Controls -- Failures at LSC	L	H	• Management accountability • Annual audit • Board oversight • Regular review/update of Accounting Manual	Treasurer	Audit Com.		
Litigation -- Employment	M	M	• Regular training of managers • Clear-cut policies and uniform application	Human Resources Director	Ops. & Regs. Com.		
			• Effective negotiation and use of releases	Vice President of Legal Affairs (VPLA)			
Integrity of electronic data/ information -- Potential for Problems -- Security of electronic data	L	H	• Effective system back-ups • Effective disaster recovery • Regular staff training • Maintain qualified IT staff • Effective document and system security • Maintain up-to-date technology	Chief Information Officer (CIO)	Ops. & Regs. Com.		

RISK TO LSC RESOURCES –ASSETS

Risks			Strategies	Who is responsible?		Date of last review	Date of next review
	Probability	**Severity**		**Management**	**Board**		
Accuracy of grantee data -- Potential for Problems	L	H	• Reliability testing (electronic analysis) • Clear guidance/training on grantee reporting • Clarify and better report "Other Services" data provided by grantees • Self inspections	Office of Information Management (OIM) Director	Ops. & Regs. Com.		
			• CSR/CMS program visits	OCE Director			
			• Technology assistance	OPP Director			
LSC Records Management -- Potential for Problems	L	M	• Update records management policy, including statement on the handling of confidential information • Train staff in new policy • Effective FOIA procedures • Stay abreast of best practices • Maintain effective computer back-ups • Maintain effective security on electronic information access *(continued on next page)*	CIO VPLA	Ops. & Regs. Com.		

RISK TO LSC RESOURCES –ASSETS							
Risks			**Strategies**	**Who is responsible?**		**Date of last review**	**Date of next review**
	Probability	**Severity**		**Management**	**Board**		
			• Improve internal access to key records • improve public access to records • Ensure compliance with legal requirements				
Preservation of LSC interest in grantee property -- Potential for loss	L	L	• Maintain up to date Property Acquisition Manual • Remind grantees of LSC policy • Pursue remedies as necessary	VPLA	Ops. & Regs. Com.		
Natural Disasters or interruptions of normal operations	L L	H H	• Effective COOP plan • Computer network back-up	Chief of Staff CIO	Ops. & Regs. Com.		

RISK TO LSC RESOURCES – GRANTEES							
Risks			**Strategies**	**Who is responsible?**		**Date of last review**	**Date of next review**
	Probability	**Severity**		**Management**	**Board**		
Grantee Oversight by LSC & IPAs -- Preventing lapses	M	H	• Rigorous Compliance oversight • Improved IPA oversight (provide recommenda-tions to OIG) • Maintain comprehensive procedures manuals • Well-defined workplans for program visits • Careful review of grantee reports to LSC • Communications between offices • Internal training • Regular communications with programs • Monitoring media reports	VPGM	Ops & Regs. Com. Prom. & Prov. For Del. Of Legal Serv. Com.	q	
Interpretations of regulations by LSC Staff -- Preventing inconsistencies	L	H	• Joint meetings and trainings • Joint work groups by topic • Feedback from grantees	VPGM	Ops & Regs. Com.		

RISK TO LSC RESOURCES – GRANTEES

Risks			Strategies	Who is responsible?		Date of last review	Date of next review
	Probability	Severity		Management	Board		
Grantee Operations			• Rigorous selection process for grantees • Enforcement of regulations • Grant assurances • Grant conditions • Advisories • Program letters • Oversight visits • LSC Resource Information • Training of grantee staff • Performance Criteria • Outreach to local boards • Local board education • Outreach to Access to Justice community in region • On-site assessment to encourage competition • Review/redefine services • Seek interim provider • Work with programs to improve compliance and make it less likely *(continued on next page)*	VPGM	Prom. & Prov. For Del. Of Legal Serv. Com.		
-- Major misuse of grant funds	M	H					
-- Failure of leadership	L	H					
-- Failure of internal controls	M	H					
-- Lack of board oversight	M	H					
-- Leadership transitions	H	M					
-- Restriction violations	M	H					
-- Poor records management	M	M					
-- Poor Quality legal services	L	M					
-- Need to replace program	L	H					

RISK TO LSC RESOURCES – GRANTEES							
Risks			Strategies	Who is responsible?		Date of last review	Date of next review
	Probability	Severity		Management	Board		
			that they will violate restrictions or otherwise require the imposition of sanctions				
			• Periodic review of regulations • OLA opinions	VPLA			

Responsibilities for Risk Management

Board of Directors

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

President

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

Vice President for Legal Affairs

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

Vice President for Grants Management

- Supervises oversight of grantee operations and compliance.

Treasurer/Comptroller

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

Executive Team

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

Office Directors

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

BOARD OF DIRECTORS

RESOLUTION

RISK MANAGEMENT OVERSIGHT

WHEREAS, as part of its ongoing risk management responsibilities, Management has identified the principal risks facing the Legal Services Corporation ("LSC") as set forth in a risk matrix attached hereto as Exhibit A; and

WHEREAS, the Audit Committee of the Board of Directors ("Board") of the LSC has reviewed and discussed the risk matrix and the assignment of the risk areas identified therein to Board committees for the purpose of oversight;

WHEREAS, the Audit Committee has recommended that the Board adopt the assignment of risk areas to Board committees for oversight as set forth in the attached matrix;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts the assignment of risk areas to Board committees as set forth in the attached matrix and directs Management to report periodically on indicated risk areas to the specified committee on a schedule to be determined by each committee in consultation with Management.

Adopted by the Board of Directors
On October 22, 2014

_____

John G. Levi
Chairman

Resolution #2013-0XX

Attest:

_____

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

Questioned Costs

QUESTIONED COST – REFERENCE GUIDE

QUESTIONED COSTS HISTORICAL INFORMATION FOR IGS

Source: Progress Report to the President Fiscal Year 2011 (Latest posted)

Table 5. Questioned Costs

Reporting Year	Amount of Questioned Costs	Amount of Recommendations Agreed to by Management
FY 2011	$17,236,755,075	$10,422,761,199
FY 2010	$62,173,747,225*	$56,577,408,559*
FY2009	$9,156,791,667	$6,134,700,586
FY 2008	$6,308,035,525	$4,419,333,800
FY 2007	$5,464,017,707	$4,087,941,919

* This amount includes nearly $50 billion reported by the U.S. Postal Service's Office of Inspector General on its work associated with the "Civil Service Retirement System overpayment by the Postal Service," and "Certification Process for Electronic Payments."

IG ACT

§ 5. SEMIANNUAL REPORTS; TRANSMITTAL TO CONGRESS; AVAILABILITY TO PUBLIC; IMMEDIATE REPORT ON SERIOUS OR FLAGRANT PROBLEMS; DISCLOSURE OF INFORMATION; DEFINITIONS

(f) As used in this section—

(1) the term "questioned cost" means a cost that is questioned by the Office because of—

(A) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

(B) a finding that, at the time of the audit, such cost is not supported by adequate documentation; or

(C) a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable;

(2) the term "unsupported cost" means a cost that is questioned by the Office because the Office found that, at the time of the audit, such cost is not supported by adequate documentation;

(5) the term "management decision" **means the evaluation by the management** of an establishment of the findings and recommendations included in an audit report and the issuance of a final decision by management concerning its response to such findings and recommendations, including actions concluded to be necessary; and

(6) the term "final action" means—

(A) the completion of all **actions that the management of an establishment has concluded, in its management decision, are necessary** with respect to the findings and recommendations included in an audit report; and

(B) in the event that the management of an establishment concludes no action is necessary, **final action occurs when a management decision has been made**.

YELLOW BOOK

Chapter 5 Reporting Standards for Financial Audits:

5.22 Auditors should place their findings in perspective by describing the nature and extent of the issues being reported and the extent of the work performed that resulted in the finding. To give the reader a basis for judging the prevalence and consequences of these findings, auditors should, as applicable, relate the instances identified to the population or the number of cases examined and quantify the results in terms of dollar value or other measures, as appropriate. If the results cannot be projected, auditors should limit their conclusions appropriately.

Chapter 6 General, Field Work, and Reporting Standards for Attestation Engagements:

6.43 Auditors should place their findings in perspective by describing the nature and extent of the issues being reported and the extent of the work performed that resulted in the finding. To give the reader a basis for judging the prevalence and consequences of these findings, auditors should, as applicable, relate the instances identified to the population or the number of cases examined and quantify the results in terms of dollar value or other measures, as appropriate. If the results cannot be projected, auditors should limit their conclusions appropriately.

Chapter 8 Reporting Standards for Performance Audits:

8.16 Auditors should place their findings in perspective by describing the nature and extent of the issues being reported and the extent of the work performed that resulted in the finding. To give the reader a basis for judging the prevalence and consequences of these findings, auditors should, as applicable, relate the instances identified to the population or the number of cases examined and quantify the results in terms of dollar value, or other measures, as appropriate. If the results cannot be projected, auditors should limit their conclusions appropriately.

45 CFR PART 1630

§ 1630.2 Definitions.

(g) *Questioned cost* means a cost that a recipient has charged to Corporation funds which Corporation management, the Office of Inspector General, the General Accounting Office, or an independent auditor or other audit organization authorized to conduct an audit of a recipient has questioned because of an audit or other finding that:

(1) There may have been a violation of a provision of a law, regulation, contract, grant, or other agreement or document governing the use of Corporation funds;

(2) The cost is not supported by adequate documentation; or

(3) The cost incurred appears unnecessary or unreasonable and does not reflect the actions a prudent person would take in the circumstances.

LSC QUESTIONED COST PROCESS PER 45 CFR PART 1630

§ 1630.7 Review of questioned costs and appeal of disallowed costs.

(a) When the Office of Inspector General, the General Accounting Office, or an independent auditor or other audit organization authorized to conduct an audit of a recipient has identified and referred a questioned cost to the Corporation, Corporation management shall review the findings of the Office of Inspector General, General Accounting Office, or independent auditor or other authorized audit organization, as well as the recipient's written response to the findings, in order to determine accurately the amount of the questioned cost, the factual circumstances giving rise to the cost, and the legal basis for disallowing the cost. Corporation management may also identify questioned costs in the course of its oversight of recipients.

(b) If Corporation management determines that there is a basis for disallowing a questioned cost, and if not more than five years have elapsed since the recipient incurred the cost, Corporation management shall provide to the recipient written notice of its intent to disallow the cost. The written notice shall state the amount of the cost and the factual and legal basis for disallowing it.

(c) Within thirty (30) days of receiving written notice of the Corporation's intent to disallow the questioned cost, **the recipient may respond with written evidence and argument to show** that the cost was allowable, or **that the Corporation, for equitable, practical, or other reasons, should not recover all or part of the amount,** or that the recovery should be made in installments. If the recipient does not respond to the Corporation's written notice, Corporation management shall issue a management decision on the basis of information available to it.

(d) Within sixty (60) days of receiving the recipient's written response to the notice of intent to disallow the questioned cost, **Corporation management shall issue a management decision stating whether or not the cost has been disallowed, the reasons for the decision**, and the method of appeal as provided in this section.

(1) If Corporation management has determined that the questioned cost should be allowed, and that no corrective action by the recipient is necessary, final action with respect to the questioned cost occurs at the time when the Corporation issues the management decision.

(2) If Corporation management has determined that the questioned cost should be disallowed, the management decision shall also describe the expected recipient action to repay the cost, including the method and schedule for collection of the amount of the cost. The management decision may also require the recipient to make financial adjustments or

take other corrective action to prevent a recurrence of the circumstances giving rise to the disallowed cost.

(e) If the amount of a disallowed cost exceeds $2,500, the recipient may appeal in writing to the Corporation President within thirty (30) days of receiving the Corporation's management decision to disallow the cost. The written appeal should state in detail the reasons why the Corporation should not disallow part or all of the questioned cost. If the amount of a disallowed cost does not exceed $2,500, or if the recipient elects not to appeal the disallowance of a cost in excess of $2,500, the Corporation's management decision shall be final.

(f) Within thirty (30) days of receipt of the recipient's appeal of a disallowed cost in excess of $2,500, **the President shall either adopt, modify, or reverse the Corporation's management decision to disallow the cost.** If the President has had prior involvement in the consideration of the disallowed cost, the President shall designate another senior Corporation employee who has not had prior involvement to review the recipient's appeal. The President shall also have discretion, in circumstances where the President has not had prior involvement in the disallowed cost, to designate another senior Corporation employee to review the recipient's appeal, provided that the senior Corporation employee has not had prior involvement in the disallowed cost.

(g) **The decision of the President or designee shall be final** and shall be based on the written record, consisting of the Corporation's notice of intent to disallow the questioned cost, the recipient's response, the management decision, the recipient's written appeal, any additional response or analysis provided to the President or designee by Corporation staff, and the relevant findings, if any, of the Office of Inspector General, General Accounting Office, or other authorized auditor or audit organization. Upon request, the Corporation shall provide a copy of the written record to the recipient.

403(b) Plan Performance Memo

Legal Services Corporation
America's Partner For Equal Justice

OFFICE OF HUMAN RESOURCES

MEMORANDUM

TO: **The Audit Committee**

FROM: **Traci L. Higgins**

DATE: **October 3, 2013**

SUBJECT: **LSC 403(b) Thrift Plan – 3rd Quarter 2013 Update; 403(b) Plan Audit Update**

---

403 (b) Plan Performance

Through September 30, 2013, LSC's funds have fared well. Despite recent volatility, the YTD returns of twenty-three of LSC's twenty-five funds improved above the YTD returns registered at the end of the second quarter. Sixteen funds registered gains of at least 4%, with six of those funds improving by 7% or more. One of our three bond funds registered a decline of less than ¼% from last quarter's performance, with a second bond fund improving its performance by ¼%. The Nuveen Real Estate fund registered the largest decline (-3.75%). All of the funds have positive one-, three- and five-year returns. A report detailing performance through September 30th is attached.

403 (b) Plan Distributions

There was a total of $489,783.90 in distributions during the third quarter, with three current employees and one former employee accounting for $469,231 of the total. A former employee rolled over more than $225,000, and three current employees over the age of 59½ had in-service withdrawals totaling $241,134. Additional activity related to mandatory cash-outs for temporary employees who did not vest and modest rollovers for five other former employees.

403(b) Plan Audit Update: A draft of the 403(b) plan audit was remitted to LSC on October 1, 2013. We are reviewing the document and will respond to the auditor by October 4th.

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

3333 K Street, NW 3rd Floor
Washington, DC 20007-3522
Phone 202.295.1500 Fax 202.337.6797
www.lsc.gov

Period Ending Date	AssetClass::InvestStyle	FundName	Gross Expense Ratio	Net Expense Ratio	Expense Waiver Expiration	Year-to-Date	1Year	3Year	5Year	10Year	AULInception	MoneyMarketYield
09/30/2013												
LSC 403(b) Fund	Fix Int/Stable Value/Cash :: Cash	OneAmerica Money Mkt O	0.53	0.53	Voluntary	(0.93)	(1.25)	-1.24	-1.15	0.26	4/12/1990	-1.25
	Intermediate-Term Bonds :: Inflation Protected B	AmerCent Infl-Adj Bond A	0.73	0.73	Voluntary	(8.18)	(8.04)	1.89	3.44	3.31	6/15/1998	0
		PIMCO Total Return Adm	0.71	0.71	Voluntary	(2.98)	(2.23)	2.23	6.36	4.54	9/8/1994	0
	High Yield Bonds :: High Yield Bond	Prudential High-Yield Z	0.62	0.62	Voluntary	2.86	5.66	7.5	10.4	7.06	3/1/1996	0
	Large-Cap Stocks :: Large Cap Value	TRowePrice Eqty Inc Ins	0.85	0.85	Voluntary	18.20	20.07	14.1	7.87	6.46	3/31/1994	0
		State St Eqty 500 Indx Adm	0.24	0.24	Voluntary	18.40	17.59	14.5	8.52	6.05	8/27/1992	0
		Alger Cap App Inst	1.19	1.19	Voluntary	19.73	18.45	15.1	11.9	9.64	11/8/1993	0
		TIAA-CREF Grth & Inc R	0.71	0.71	Voluntary	19.95	18.67	15.5	7.21	7.67	10/1/2002	0
	Mid-Cap Stocks :: Mid Cap Value	GoldmanSachs MidCap Val Inst	0.75	0.75	Voluntary	22.12	26.34	14.2	10.3	9.49	8/1/1995	0
		Lord Abbett Val Ops A	1.31	1.31	Voluntary	22.85	26.90	12.8	8.66	8.64	12/30/2005	0
	Small-Cap Stocks :: Small Cap Blend	Columbia SmCap Indx A	0.48	0.48	Voluntary	27.03	29.33	18.7	10.6	9.32	10/15/1996	0
		BMO SmCap Grth Y	1.46	1.44	12/31/2013	31.61	33.50	17.5	15.7	11.17	9/4/1996	0
	Foreign Stocks :: Diversified Emerg Mkt	Oppenheimer Dev Mkt Fd Y	1.03	1.03	Voluntary	3.84	8.28	3.08	10.3	10.65	9/7/2005	0
		AmerFds EuroPac Grth R4	0.85	0.85	Voluntary	10.60	16.37	5.38	5.81	8.18	6/7/2002	0
	World Stocks :: World Stock	AmerFds Cap World Grth&Inc R4	0.8	0.8	Voluntary	14.87	19.10	8.94	6.65	8.35	6/27/2002	0
	Specialty :: Specialty	Nuveen RealEstate Secs A	1.28	1.28	Voluntary	1.15	3.30	10.4	5.52	9.51	9/29/1995	0
		Prudential Jenn Natural Recs Z	0.89	0.89	Voluntary	8.78	5.46	0.27	-0.35	13.06	9/13/1996	0
	Managed Asset Allocation :: Mgd Asset Allocation	AmerCent One Choice 2015 INV	0.8	0.8	Voluntary	6.12	6.60	7.23	5.99	4.94	8/31/2004	0
		AmerCent One Choice 2020 INV	0.83	0.83	Voluntary	6.79	7.52	7.7	6.42	3.56	5/30/2008	0
		AmerCent One Choice 2025 INV	0.86	0.86	Voluntary	7.82	8.62	8.28	7.22	5.61	8/31/2004	0
		AmerCent One Choice 2030 INV	0.88	0.88	Voluntary	9.04	9.97	8.87	6.75	3.39	5/30/2008	0
		AmerCent One Choice 2035 INV	0.91	0.91	Voluntary	10.38	11.48	9.59	8.6	6.35	8/31/2004	0
		AmerCent One Choice 2040 INV	0.95	0.95	Voluntary	11.45	12.64	10.3	7.58	3.67	5/30/2008	0
		AmerCent One Choice 2045 INV	0.98	0.98	Voluntary	12.27	13.61	10.6	7.34	6.1	8/31/2004	0
		AmerCent One Choice 2050 INV	1.0	1.0	Voluntary	12.53	13.93	10.9	7.43	3.32	5/30/2008	0
		AmerCent One Choice 2055 INV	1.01	1.01	Voluntary	12.94	14.40	N/A	N/A	7.54	4/1/2011	0
		AmerCent One Choice INC INV	0.77	0.77	Voluntary	5.88	6.29	6.96	5.88	4.42	8/31/2004	0

VI. Promotion & Provision Committee

PROMOTION AND PROVISION FOR THE DELIVERY OF LEGAL SERVICES COMMITTEE

October 21, 2013
Agenda

Open Session

1. Approval of Agenda

2. Discussion of Committee's charter

3. Panel presentation on LSC's Performance Criteria

   - *Katia Garrett*, Executive Director, District of Columbia Bar Foundation
   - *Alex Gulotta*, Executive Director, Legal Aid Justice Center
   - *Yvonne Mariajimenez*, Deputy Director, Neighborhood Legal Services of Los Angeles County
   - *Janet LaBella*, Director, Office of Program Performance, Legal Services Corporation *(Moderator)*

4. Public comment

5. Consider and act on other business

6. Consider and act on motion to adjourn the meeting

Committee Charter

CHARTER OF THE GRANTEE PERFORMANCE REVIEW COMMITTEE

[DRAFT REVISION]

(Amended by the LSC Board of Directors on and effective as of _____)

I. Purpose

The purposes of the Committee shall be to encourage high quality in the delivery of legal services to the poor by grantees of the Legal Services Corporation (LSC). To accomplish this purposes, the Committee shall review, discuss, and make recommendations to the Board, when appropriate in view of LSC's role as a leading funder of civil legal aid programs, on all issues related to the quality of legal services delivery, including but not limited to the service of special populations, delivery models and systems, evaluations of grantee performance, and the role of private attorneys in the delivery of legal services to the poor.

II. Membership

The Chairman of the Board ("Chairman") shall appoint at least three Directors to serve on the Committee and designate at least one to serve as its chairman. The Chairman may appoint non-Directors as members of the Committee. A majority of the Director members of the Committee (or two, if their number is even) will be required to constitute a quorum. No member of the Committee may be an officer or employee of the Corporation.

III. Terms

Members of the Committee shall serve for a term of one year, or until their earlier resignation, replacement, or removal from the Committee or Board.

IV. Meetings

The Committee:

(1) shall meet at least four times per calendar year, but may meet more frequently at the call of the Committee's Chairman or majority of the Committee's membership; and

(2) may adopt procedural rules that are not inconsistent with this Charter, the Corporation's Bylaws, or the laws to which the Corporation is subject.

V. Resources

All offices, divisions, and components of the Corporation ("Management"), including the Office of Inspector General ("OIG"), are expected to cooperate with all requests made by the Committee for information and Management shall provide any necessary support. The Committee shall be given the resources necessary to carry out its responsibilities.

VI. Authority

The Committee:

(1) shall have unrestricted access to the Corporation's books, records, facilities, personnel, and outside consultant(s);

(2) is authorized to carry out the duties and responsibilities described in this Charter, as well as any other activities reasonably related to the Committee's purposes or as may be directed by the Board from time to time;

(3) may delegate authority to one or more designated members of the Committee;

(4) may rely on the expertise and knowledge of Management, the OIG, and such consultants and experts that the Board approves for carrying out its responsibilities;

(5) may authorize to be conducted, or itself conduct, reviews into any matters within the scope of its responsibilities; and

(6) may request any person, including outside consultants or any officer or employee of the Corporation, to attend Committee meetings or to meet with any member(s) of or advisor(s) to the Committee.

VII. Duties and Responsibilities

The Committee shall:

A. CORE RESPONSIBILITIES

(1) evaluate methods and standards for assessing grantee delivery of legal services, including the LSC Performance Criteria and any significant revisions made thereof;

(2) receive periodically from Management a briefing on findings, trends, and challenges identified by Management regarding the program quality of grantees, as well as any recommendations for improvement and follow-up actions;

(3) review (a) assessments of legal needs of the low income communities performed by grantees, (b) priorities established by such assessments, and the extent to which these are performed in a manner consistent with the Legal Services Corporation Act and LSC regulations, and (c) proper evaluation of grantees' effectiveness in meeting these priorities;

(4) review appropriate metrics to evaluate the efficiencies and effectiveness of grantee legal services, outcomes and benefits obtained for clients, other societal benefits, and governmental savings;

(5) review any system of reward or recognition of exemplary service provision and of incentives for improvement created or proposed to be created for grantees;

(6) review the scope and effectiveness of *pro bono* and other private attorney involvement in the promotion and provision of legal services by grantees;

(7) review the effectiveness of other methods of delivering high quality legal services;

(8) review with management compliance by grantees with Section 1007(c) of the LSC Act as it relates to the effective participation of eligible clients as members of the governing boards of grantees;

(9) review and discuss with Management programs offered or potentially to be offered by the Corporation to grantees related to improving the quality of the provision of legal services or the training of management or boards of directors; and

(10) review annually with Management those aspects of its risk management assessment that relate to the quality of legal services delivered by LSC grantees;

B. OTHER RESPONSIBILITIES

(1) report to the Board at least four times per calendar year and on such other occasions as requested to do so by the Board;

(2) regularly report Committee actions, and make recommendations the Committee deems appropriate, to the Board with respect to any matters the Committee deems necessary or appropriate;

(3) periodically assess the Committee's performance under the Charter, reassess the adequacy of the Charter, and report to the Board the results of the evaluation and any recommendations for proposed changes to the Charter; and

(4) perform such other duties and responsibilities, consistent with this Charter, delegated to the Committee by the Board.

VIII. Overall Limitations

(1) Nothing contained in this Charter is intended to expand the applicable standards of liability under statutory or regulatory requirements for the Board or its Directors.

(2) The Committee is an advisory committee, as defined at D.C. Code §29-406.25(h), and nothing contained in this Charter shall be construed as authorize the Committee to exercise the powers of the Board.

DRAFT ~~September 2013~~October 2013

CHARTER OF THE GRANTEE PERFORMANCE REVIEW COMMITTEE

[DRAFT REVISION]

(Amended by the LSC Board of Directors on and effective as of _____)

I. Purpose

The purposes of the Committee shall be to encourage high quality in the delivery of legal services to the poor by grantees of the Legal Services Corporation (LSC). To accomplish this purposes, the Committee shall review, discuss, and make recommendations to the Board, when appropriate in view of LSC's role as a leading funder of civil legal aid programs, on all issues related to the quality of legal services delivery, including but not limited to the service of special populations, delivery models and systems, evaluations of grantee performance, and the role of private attorneys in the delivery of legal services to the poor.

II. Membership

The Chairman of the Board ("Chairman") shall appoint at least three Directors to serve on the Committee and designate at least one to serve as its chairman. The Chairman may appoint non-Directors as members of the Committee. A majority of the Director members of the Committee (or two, if their number is even) will be required to constitute a quorum. No member of the Committee may be an officer or employee of the Corporation.

III. Terms

Members of the Committee shall serve for a term of one year, or until their earlier resignation, replacement, or removal from the Committee or Board.

IV. Meetings

The Committee:

(1) shall meet at least four times per calendar year, but may meet more frequently at the call of the Committee's Chairman or majority of the Committee's membership; and

(2) may adopt procedural rules that are not inconsistent with this Charter, the Corporation's Bylaws, or the laws to which the Corporation is subject.

V. Resources

All offices, divisions, and components of the Corporation ("Management"), including the Office of Inspector General ("OIG"), are expected to cooperate with all requests made by the Committee for information and Management shall provide any necessary support. The Committee shall be given the resources necessary to carry out its responsibilities.

VI. Authority

The Committee:

(1) shall have unrestricted access to the Corporation's books, records, facilities, personnel, and outside consultant(s);

(2) is authorized to carry out the duties and responsibilities described in this Charter, as well as any other activities reasonably related to the Committee's purposes or as may be directed by the Board from time to time;

(3) may delegate authority to one or more designated members of the Committee;

(4) may rely on the expertise and knowledge of Management, the OIG, and such consultants and experts that the Board approves for carrying out its responsibilities;

(5) may authorize to be conducted, or itself conduct, reviews into any matters within the scope of its responsibilities; and

(6) may request any person, including outside consultants or any officer or employee of the Corporation, to attend Committee meetings or to meet with any member(s) of or advisor(s) to the Committee.

VII. Duties and Responsibilities

The Committee shall:

A. CORE RESPONSIBILITIES

(1) evaluate methods and standards for assessing grantee delivery of legal services, including the LSC Performance Criteria and any significant revisions made thereof;

(2) receive periodically from Management a briefing on findings, trends, and challenges identified ~~in Program Quality Visits and~~ by Management regarding the program quality of grantees, as well as any recommendations for improvement and follow-up actions;

(3) review (a) assessments of legal needs of the low income communities performed by grantees, (b) priorities established by such assessments, and the extent to which these are performed in a manner consistent with the Legal Services Corporation Act and LSC regulations, and (c) proper evaluation of grantees' effectiveness in meeting these priorities;

(4) review appropriate metrics to evaluate the efficiencies and effectiveness of grantee legal services, outcomes and benefits obtained for clients, other societal benefits, and governmental savings;

(5) review any system of reward or recognition of exemplary service provision and of incentives for improvement created or proposed to be created for grantees;

(6) review the scope and effectiveness of *pro bono* and other private attorney involvement in the promotion and provision of legal services by grantees;

(7) review the effectiveness of other methods of delivering high quality legal services;

~~(7)~~(8) review with management compliance by grantees with Section 1007(c) of the LSC Act as it relates to the effective participation of eligible clients as members of the governing boards of grantees;

~~(8)~~(9) review and discuss with Management ~~training~~ programs offered or potentially to be offered by the Corporation to grantees related to ~~the~~ improving the quality of the provision of legal services or the training of management or boards of directors; and

~~(9)~~(10) review annually with Management those aspects of its risk management assessment that relate to the quality of legal services delivered by LSC grantees;

B. OTHER RESPONSIBILITIES

(1) report to the Board at least four times per calendar year and on such other occasions as requested to do so by the Board;

(2) regularly report Committee actions, and make recommendations the Committee deems appropriate, to the Board with respect to any matters the Committee deems necessary or appropriate;

(3) periodically assess the Committee's performance under the Charter, reassess the adequacy of the Charter, and report to the Board the results of the evaluation and any recommendations for proposed changes to the Charter; and

(4) perform such other duties and responsibilities, consistent with this Charter, delegated to the Committee by the Board.

VIII. Overall Limitations

(1) Nothing contained in this Charter is intended to expand the applicable standards of liability under statutory or regulatory requirements for the Board or its Directors.

(2) The Committee is an advisory committee, as defined at D.C. Code §29-406.25(h), and nothing contained in this Charter shall be construed as authorize the Committee to exercise the powers of the Board.

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CHARTER OF THE
~~PROMOTION AND PROVISION~~
~~FOR THE DELIVERY OF LEGAL SERVICES~~
GRANTEE PERFORMANCE REVIEW COMMITTEE

[DRAFT REVISION]

(Amended by the LSC Board of Directors on and effective as of ~~July 30, 2010)~~ _____)

I. ~~I.~~ Purpose

The purposes of the Committee shall be to encourage ~~continuous and ongoing improvement~~high quality in the ~~promotion and provision~~delivery of legal services to the poor~~.~~ by grantees of the Legal Services Corporation (LSC). To accomplish ~~these~~this purposes, the Committee shall ~~have a broad mandate to~~ review, discuss, and make recommendations to the Board, when appropriate in view of LSC's role as a leading funder of civil legal aid programs, on all issues related to the quality of legal services delivery, including but not limited to the service of special populations, delivery models and systems, evaluations of grantee performance, and the role of private attorneys in the delivery of legal services to the poor.

II. ~~II.~~ Membership

The Chairman of the Board ("Chairman") shall appoint at least three Directors to serve on the Committee and designate ~~one to serve as its Chairman~~at least one to serve as its chairman. The Chairman may appoint non-Directors as members of the Committee. A majority of the Director members of the Committee (or two, if their number is even) will be required to constitute a quorum. No member of the Committee may be an officer or employee of the Corporation.

III. ~~III.~~ Terms

Members of the Committee shall serve for a term of one year, or until their earlier resignation, replacement, or removal from the Committee or Board.

~~III.~~IV. Meetings

The Committee:

(1) ~~(1)~~shall meet at least four times per calendar year, but may meet more frequently at the call of the Committee's Chairman or majority of the Committee's membership; and

(2) ~~(2)~~ may adopt procedural rules that are not inconsistent with this Charter, the Corporation's Bylaws, or the laws to which the Corporation is subject.

~~IV.~~V. ~~IV.~~ Resources

All offices, divisions, and components of the Corporation, ("Management"), including the Office of Inspector General ("OIG"), shallare expected to cooperate with all requests made by the Committee for information and Management shall provide any necessary support. The Committee shall be given the resources necessary to carry out its responsibilities.

V.
V.VI. Authority

The Committee:

(1) shall have unrestricted access to the Corporation's books, records, facilities, personnel, and outside consultant(s);

(2) is authorized to carry out the duties and responsibilities described in this Charter, as well as any other activities reasonably related to the Committee's

purposes or as may be directed by the Board from time to time;

(3) may delegate authority to one or more designated members of the Committee;

(4) may rely on the expertise and knowledge of Management, the OIG, and such consultants and experts that the Board approves for carrying out its responsibilities;

(5) may authorize to be conducted, or itself conduct, reviews into any matters within the scope of its responsibilities; and

(6) may request any person, including outside consultants or any officer or employee of the Corporation, to attend Committee meetings or to meet with any member(s) of or advisor(s) to the Committee.

~~VI.~~VII. ~~VI.~~ Duties and Responsibilities

The Committee shall:

A. CORE RESPONSIBILITIES

~~(1) shall consider assisting the Board in implementing Section 1007(g) of the LSC Act by developing proposals for improvements in the promotion and provision of legal services to the poor;~~

~~(2) shall consider recommending~~evaluate methods ~~for achieving the most efficient and effective~~ and standards for assessing grantee delivery of legal services~~;~~

~~(3) shall consider assisting the Board in evaluating the performance of the delivery system;~~

(1) ~~(4)shall consider addressing policy issues regarding grantee audits~~, including ~~performance evaluations and compliance monitoring~~the LSC Performance Criteria and any significant revisions made thereof;

~~(5) shall consider studying the special legal needs faced by certain groups;~~

(2) ~~(6)shall consider addressing other issues~~receive periodically from Management a briefing on findings, trends, and challenges identified by Management regarding the ~~type,~~program quality~~, and method~~ of ~~delivering~~ grantees, as well as any recommendations for improvement and follow-up actions;

(3) review (a) assessments of legal needs of the low income communities performed by grantees, (b) priorities established by such assessments, and the extent to which these are performed in a manner consistent with the Legal Services Corporation Act and LSC regulations, and (c) proper evaluation of grantees' effectiveness in meeting these priorities;

~~(2)~~(4) review appropriate metrics to evaluate the efficiencies and effectiveness of grantee legal services, outcomes and benefits obtained for clients, other societal benefits, and governmental savings;

(5) review any system of reward or recognition of exemplary service provision and of incentives for improvement created or proposed to be created for grantees;

(6) review the scope and effectiveness of *pro bono* and other private attorney involvement in the promotion and provision of legal services by grantees;

(7) review the effectiveness of other methods of delivering high quality legal services;

(8) review with management compliance by grantees with Section 1007(c) of the LSC Act as it relates to the effective participation of eligible clients as members of the governing boards of grantees;

(9) review and discuss with Management programs offered or potentially to be offered by the Corporation to grantees related to improving the quality of the provision of legal services or the training of management or boards of directors; and

(10) review annually with Management those aspects of its risk management assessment that relate to the quality of legal services delivered by LSC grantees;

B. OTHER RESPONSIBILITIES

(1) ~~(7)shall~~ report to the Board at least four times per calendar year and on such other occasions as requested to do so by the Board;

~~(1)~~(2) regularly report Committee actions, and make recommendations the Committee deems appropriate, to the Board with respect to any matters the Committee deems necessary or appropriate;

~~(8) shall perform such other duties and responsibilities, consistent with this Charter, delegated to the Committee by the Board;~~

~~SELF-EVALUATION~~

(3) ~~(9)shall~~ periodically assess the Committee's performance under the Charter, reassess the adequacy of the Charter, and report to the Board the results of the evaluation and any recommendations for proposed changes to the Charter~~.~~; and

(4) perform such other duties and responsibilities, consistent with this Charter, delegated to the Committee by the Board.

VIII. Overall Limitations

(1) Nothing contained in this Charter is intended to expand the applicable standards of liability under statutory or regulatory requirements for the Board or its Directors.

~~(1)~~(2) The Committee is an advisory committee, as defined at D.C. Code §29-406.25(h), and nothing contained in this Charter shall be construed as authorize the Committee to exercise the powers of the Board.

Performance Criteria

LSC
America's Partner For Equal Justice

Legal Services Corporation

Performance Criteria

Referenced to the ABA Standards for the Provision of Civil Legal Aid

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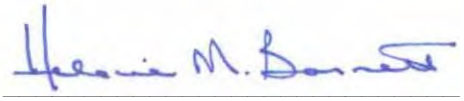

Helaine M. Barnett
President, Legal Services Corporation
March 2007

LEGAL SERVICES CORPORATION

PERFORMANCE CRITERIA

2007 EDITION

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LEGAL SERVICES CORPORATION

PERFORMANCE CRITERIA

2007 EDITION

INTRODUCTION

These introductory comments explain the background and purpose of the Legal Services Corporation (LSC) Performance Criteria that follow. This edition of the Criteria is based on earlier versions first developed for the Legal Services Comparative Demonstration Project during 1993 and Legal Services Corporation peer review evaluations during 1994, and then for LSC program reviews and the competitive grants process from 1995 to the present.

This revision to the Criteria is a key part of the LSC's overall quality initiative, a multi-pronged strategy with a goal of ensuring that all Legal Services programs provide high-quality legal assistance.[1] LSC will continue to use the Criteria to guide LSC's assessments of program performance generally and in the competitive grants process. LSC has statutory responsibility to ensure the provision of economical and effective delivery of legal assistance by Legal Services programs to eligible persons in all parts of the country, including U.S. territories.[2] Consistent with that obligation, the Criteria are designed to guide the examination of Legal Services programs that provide comprehensive legal assistance to low-income persons in a geographical service area, including limited and full representation and other forms of legal services. In addition, the Criteria are designed to provide the basis for evaluation of Legal Services programs that, through a state planning process are designated as providers primarily of limited assistance, for example, intake or hotline operations in connection with a comprehensive delivery system that provides a full range of services, including full representation. For purposes of LSC's evaluations, Legal Services programs that primarily provide limited representation are subject to the requirements of Performance Areas One, Two and Four, as well as the relevant portions of Performance Area Three.

LSC intends that the Criteria will continue to be a useful framework for internal program self-evaluations, planning, and program development, as well as external peer reviews and expert assessments by other funding sources, such as IOLTA programs and government agencies. Use by such other funding sources may require some adaptation to reflect differences in mission, authorization, or restrictions.

Since the adoption of the original Criteria in the early 1990's, there has been significant change and evolution in Legal Services programs around the country. State planning, mergers, closing or modification of many support centers, rapidly developing technology and applications, and explosion of the Internet all have had major impact. The reduction in federal funding in 1995-1996 and restrictions adopted by the 104th Congress changed the face of Legal Services in many parts of the country. Legal

[1] In these Criteria, the capitalized term "Legal Services" will be used to refer to programs funded by the Legal Services Corporation.

[2] Pursuant to the Compact of Free Association, LSC also has the responsibility to ensure the provision of legal services to eligible clients in the Republic of the Marshall Islands, the Republic of Palau, and the Federated States of Micronesia.

Services programs, while still part of the only national civil legal assistance delivery system, in many states have become one of an expanded number of providers. Many of these other providers do not offer comprehensive services, nor are they subject to congressional restrictions on LSC funding. This new landscape makes efforts at coordination, collaboration, and statewide planning essential. The Criteria now reflect the importance of such coordination and planning, consistent with, and subject to, potential differences in mission, authority, and perspective. The Criteria also recognize that part of the responsibility of the Legal Services grantee or grantees in each state is to function as a part of an integrated delivery system, to the extent possible in coordination with other legal assistance providers. If the Legal Services program primarily provides limited representation, such as intake, advice, referral, and brief services, then the program is responsible for ensuring, through the state planning process, that there is a comprehensive and integrated delivery system utilizing LSC as well as non-LSC funded providers.

Since 1993, the low-income population also has undergone many demographic and other changes. These Criteria highlight the importance of Legal Services programs taking full account of the significance of such changes, and the need to be aware of evolving legal needs, demographics, and characteristics of the low-income population in programs' service areas.

The creation of larger, more complex programs through the designation of larger service areas makes effective program governance and management even more essential, and often more challenging. In addition, the reductions in federal funding in 1995-1996 accelerated efforts to diversify and increase non-LSC funding for Legal Services programs, adding still more management challenges. These Criteria take account of such changes.

This edition of the LSC Performance Criteria incorporates footnote references to the 2006 American Bar Association Standards for the Provision of Civil Legal Aid. The revisions to the Performance Criteria and the 2006 ABA Standards were created during overlapping time periods, with similar goals and with several mutual contributors. The purpose of the footnotes is to allow readers of the Performance Criteria ready access to the Standards, which often include more detail and analysis than the Criteria. The ABA Standards are cross-referenced to the most applicable Criterion or Criteria. Not every cross reference that could be made has been included, just those that are the most relevant. Not all ABA Standards are cross-referenced in the Performance Criteria. Reference to a particular ABA Standard does not imply that every dictate in the Standard comports with congressional restrictions on LSC funding.

At least three factors distinguish the Criteria from the Standards: (1) the Criteria are designed by the major national funding source for Legal Services programs, and in the first instance are meant to meet the needs of LSC and its programs, whereas the Standards apply to all providers of legal aid to low-income persons; (2) as noted, the Criteria are primarily intended to support program evaluation; and the Standards are designed to serve a broader range of purposes; and (3) the Criteria reflect congressional directives and restrictions and should be applied consistent with funding source requirements, while the Standards do not directly address these issues. However, the Criteria and Standards share many common values and perspectives.

The Criteria should be used with several perspectives in mind:

(1) The Criteria are designed to be used in program evaluations, self-assessments, and external reviews by peers or other experts.[3]

Ongoing self-assessment and periodic external evaluation by individuals outside the program with relevant experience and expertise (peers or other experts) are important ways for programs to gain perspectives and ideas that can make them more effective. The Criteria provide a framework for evaluation of Legal Services programs, and improvement of program performance and accountability. Within this framework, peers and other experts can offer judgments about program effectiveness. The Criteria do not themselves present quantitative standards. The vision behind the original Criteria remains applicable: by providing a single framework for structured evaluations by peers or other experts, the Criteria support a consistent national system for measuring program performance.

To promote utility as a measurement device, in each Performance Area the Criteria express three levels of increasing detail: (a) the individual *criteria* themselves, which describe in broad terms the desired effectiveness for that area; (b) the *indicators*, a set of specific markers or factors, which are suggestive of whether the criteria are being met; and (c) the *areas of inquiry*, a third level of detail, which provide specific guidance to reviewers in terms of questions to be asked and topics to be examined. Both the indicators and the areas of inquiry are intended to be illustrative of factors to be considered for each criterion. It is not required that all aspects of indicators and areas of inquiry be examined, nor should reviewers be limited to them. At the heart of the idea of review by experienced peers is the conviction that such experts are able to supply additional factors on their own and make appropriate judgments about areas to pursue based on circumstances of the particular program.

(2) The Criteria are designed to take account of the reality that Legal Services programs do not have sufficient resources to provide comprehensive services that fully meet all of the major civil legal needs of low-income people in an entire service area.

Nationally, funding limitations prevent Legal Services programs from meeting more than a fraction of the need for their services.[4] As a consequence, such programs continually must make difficult choices among very important needs and possible activities, and constantly face tradeoffs in which an increased commitment in one Performance Area may mean a lessening of emphasis in another. The Criteria are constructed with the awareness that at current resource levels programs may not be able to achieve the maximum theoretically possible in each of the major Performance Areas. In conducting assessments under the Criteria, reviewers must keep in mind that programs are compelled to balance competing needs: to assist as many as possible; to have maximum effectiveness for those who are clients; to have the broadest beneficial impact on the communities they serve; and to excel in each of the four Performance Areas.

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[3] As indicated, LSC will continue to use the Criteria for assessments of grantees by using LSC staff and outside reviewers with the requisite expertise.

[4] Legal Services Corporation. *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans.* Washington, DC. September 2005. Available at www.lsc.gov/JusticeGap.pdf.

The combination of limited resources and comprehensive responsibility for an entire service area creates a duty to focus on the most pressing civil legal needs. This concept of focusing on *most pressing civil legal needs* is central to the Criteria as a way of addressing the choice and triage compelled by less than full funding.

(3) The Criteria focus particularly on results and outcomes.

The Criteria emphasize looking at: (a) the outcomes and results of program activity for clients and the low-income population; (b) processes and systems; and (c) other "input" factors such as staff experience, equipment, office space, research capabilities, and many more. While results and outcomes for clients are central, examination of systems, processes, and inputs is also important, since their presence makes it more likely that successful outcomes can be replicated consistently over time.

The Criteria embody and give content to the requirements of effective and economical delivery required by Section 1007(a)(3) of the Legal Services Corporation Act. "Effectiveness" entails looking at the results achieved, while "economical" means trying to achieve a particular result as efficiently as possible.

(4) The Criteria embody a *dynamic* vision of program work, related to the specific needs, resources and situations in each particular community.

Perhaps most important, the Criteria are driven by a vision that a highly effective program is, within the limits of its resources, continually engaged in a dynamic process involving planning, delineating objectives, working to achieve those objectives, assessing results, and incorporating the resultant experience and learning into plans for future work. The most effective programs are constantly in processes of motion and change and are innovative and experimental. They continually adjust their approaches and strategies in response to new circumstances and ongoing judgments about which legal needs are most critical, which avenues do and do not work, what resources are available, what to do about changed laws or court precedent, and many other factors. The most effective programs constantly engage in informal assessment, and periodically incorporate more formal evaluative processes. To capture this dynamism in the evaluation framework, the Criteria begin with an examination of the effectiveness of the program's assessments of legal needs, and follow a logical flow: identification of the most pressing problems; setting goals, priorities, and objectives; developing delivery and advocacy strategies; targeting resources based upon the most pressing legal needs; implementing the objectives and working toward the desired, expressed outcomes; and then assessing and evaluating the effectiveness of the efforts before making a new determination of need and going through the entire process again.

The Criteria contemplate an assessment process that takes full account of the different situations in each program and community. They make no effort to predetermine which legal needs or types of cases are most important, what kinds or levels of service should be provided, or how specific cases should be pursued. Such categorical and quantitative absolutes are not possible or helpful, given the enormous variety in circumstances from community to community. Similarly, there is no strict checklist of specific processes, systems or factors, the presence or absence of which define whether or not a program is effective. These Criteria, however, collectively reflect LSC's sense of current best practices that promote delivery of high-quality legal services.

PERFORMANCE AREA ONE. Effectiveness in identifying the most pressing civil legal needs of low-income people in the service area and targeting resources to address those needs.

The Performance Criteria acknowledge the central importance of strategic planning, and envision a dynamic model in which such planning is followed by, and interwoven with, implementation and evaluation, constantly adjusting objectives, and strategies to better address the most critical civil legal needs of the low-income population. While much of a Legal Services program's work is necessarily reactive, responding both to major issues affecting the low-income population and to the problems faced by individual clients, such reaction should occur within a well thought-out framework, designed to enable the program to be as effective as possible in staying focused upon, and addressing, the most pressing legal needs of the low-income population it serves.[5]

Performance Area One does not require one particular form or method of assessment, such as written surveys, nor does it require extensive documentation of the planning process. Rather, the program should be able to demonstrate that it has, through whatever approaches it uses, come to a reasoned, thorough assessment of the most pressing legal needs in the communities it serves. Based on this assessment, the program should set out clearly how it is trying to address the identified needs.

Criterion 1. <u>Periodic comprehensive assessment and ongoing consideration of legal needs.</u> The program periodically undertakes comprehensive assessment of the most pressing legal problems and needs, both addressed and unaddressed, of the low-income population in its service area, including all major segments of that population with special and similar legal needs or access challenges. These comprehensive assessments should be made frequently enough, in light of their cost and administrative burden, to be reasonably calculated to identify new developments and opportunities affecting that population. In between these periodic comprehensive assessments, the program is flexible and responsive enough, and has procedures and systems in place, to recognize and adjust to major new needs of its target population that emerge or develop.[6]

[5] Where the term "legal needs" is used in these Criteria, it refers to *civil* legal needs.

Note: References footnoted throughout the LSC Performance Criteria ("Performance Criteria" or "Criteria") to "ABA Standard …" are to the Standards for the Provision of Civil Legal Aid approved by the American Bar Association ("ABA") House of Delegates in August 2006. The ABA Standards are cross-referenced to the most applicable Performance Criterion or Criteria. Not every cross reference that could be made has been included, just those that are the most relevant. Not all ABA Standards are cross-referenced in the Performance Criteria. The ABA Standards apply to LSC funded and non-LSC funded providers of civil legal aid and the Standards do not reflect the restrictions adopted by the 104th Congress in 1996. The Standards provide more extensive commentary than the Performance Criteria and sometimes refer to work that cannot be done by LSC grantees. The Criteria reflect congressional directives and restrictions and should be applied consistent with LSC regulations and requirements.

[6] ABA Standard 2.1 (on Identifying Legal Needs and Planning to Respond)

Criterion 2. Setting goals and objectives, developing strategies, and allocating resources. In light of its comprehensive and ongoing assessments of need, and its available resources, the program periodically sets explicit goals and objectives and develops strategies to achieve them. Insofar as possible, these objectives should be expressed in terms of desired outcomes for both individual clients and the low-income population as a whole or any of its major segments, as may be applicable. The program should consider and adopt strategies for its delivery approaches and its representation and advocacy that are calculated to achieve the goals and objectives. Next, the program should express its objectives, to the extent possible, in terms of outcomes that can be measured or assessed, and allocate and target its resources, consistent with these goals, objectives, and strategies. To the extent that pressing legal needs have been identified which the program will not, because of resources or other limitations, be able to address directly, the program should consider what other methods, including innovative or alternative delivery approaches, other legal assistance activity, or collaboration with or referral to other entities, might be employed to provide some measure of assistance to affected individuals or communities.[7]

Criterion 3. Implementation. The program pursues these goals, objectives, and strategies, working to achieve the desired outcomes through legal representation and assistance, advocacy, and other program work.[8]

Criterion 4. Evaluation and adjustment. The program regularly analyzes and evaluates the effectiveness of its delivery strategies and work, in major part by comparing the results actually achieved with the outcomes originally intended, and utilizes this analysis and evaluation to make appropriate changes in its goals, objectives, strategies, and legal assistance activity. Such adjustments should be made on a flexible and ongoing basis, not just after the periodic comprehensive assessments.[9]

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[7] The citation below to these ABA Standards underscores LSC's emphasis on programs adopting strategies for delivery approaches that are geared to achieving lasting results for clients.

ABA Standard 2.1 (on Identifying Legal Needs and Planning to Respond)
ABA Standard 2.2 (on Delivery Structure)
ABA Standard 2.3 (on Participation in Statewide and Regional Systems)
ABA Standard 2.6 (on Achieving Lasting Results for Low Income Individuals and Communities)

[8] ABA Standard 2.6 (on Achieving Lasting Results for Low Income Individuals and Communities)
See generally Section 3 of the ABA Standards, Standards Regarding Provider Effectiveness – Delivery Structure and Methods (3.1-3.6).

[9] ABA Standard 2.11 (on Provider Evaluation)

Criterion 1. <u>Periodic comprehensive assessment and ongoing consideration of legal needs</u>. The program periodically undertakes comprehensive assessment of the most pressing legal problems and needs, both addressed and unaddressed, of the low-income population in its service area, including all major segments of that population with special and similar legal needs or access challenges. These comprehensive assessments should be made frequently enough, in light of their cost and administrative burden, to be reasonably calculated to identify new developments and opportunities affecting that population. In between these periodic comprehensive assessments, the program is flexible and responsive enough, and has procedures and systems in place, to recognize and adjust to major new needs of its target population that emerge or develop.

Indicators

The program carries out the assessment comprehensively, considering approaches that involve: (a) getting the views of those eligible for service (methods could include questionnaires, surveys, focus groups, dialogue and meetings with clients and community members, or other suitable techniques); (b) getting the views of people and agencies that work with or know the problems of low-income people (possible sources include advocacy and social service agencies, community organizations, judges who hear cases involving low-income people, representatives of the organized bar, and Legal Services staff and board members); (c) analyzing available relevant data and other information, including census figures and any legal needs studies for the state or program service area(s); and (d) utilizing available or emerging technology, *e.g.,* GIS mapping, to shed the greatest possible light on the problems of the low-income population.

The program considers all civil legal problems and needs, broadly encompassing any matters susceptible to resolution through legal representation and other program activity, including all primary needs such as decent and affordable shelter, adequate nutrition, access to quality health care, income sufficient for a decent and secure life, physical and environmental safety and security, protection of civil rights and fundamental dignity, education and employment necessary to earn adequate income and function as a member of society, and problems that affect the safety, security, and stability of families.

Areas of Inquiry

How does the program assess the legal needs and problems of the client community? How does the program determine which of the needs identified merit the program's attention? Did the program determine the views of client-eligible people as to which needs were most pressing and important? Did the program take into account any recent formal social science legal needs study in the area or state? Did the program create opportunities for representatives of the low-income population to express their legal needs orally, in their own words?

Did the program make inquiry into all relevant legal problem areas? Was it reasonably calculated to identify emerging and non-traditional needs?

What population groups, particularly those with a high incidence of poverty, exist in the program's service area? Were available technological aids, such as GIS mapping, utilized? Was relevant data examined? Who received and responded to any needs assessment instrument? Which segments of the client population responded and which did not? In what languages were surveys administered? Were individuals without telephones able to participate? Taken as a whole, did the assessment reasonably examine the special needs of all major poverty population segments?

Indicators

The program takes account of any problems or issues that uniquely or disproportionately affect distinct and significant segments of the eligible population, such as children, seniors, indigenous people, farmworkers, ethnic and racial groups, rural and urban dwellers, people with disabilities, immigrants, people recently released from incarceration, and people who are not able to communicate well in English.

As part of the assessment, the program analyzes other providers and resources in the service area that can help meet the identified needs and considers the relative impact on eligible clients of addressing or not addressing the identified needs.

The program has systems and approaches reasonably calculated to identify new pressing issues and legal needs, both of individuals and the target population as a whole, including continuing engagement with and input from the low-income population, regular review of intake and case information, monitoring of local, state, and national legal developments, and other appropriate strategies. Such new legal needs may be either short or long term.

The program demonstrates actual awareness of such new pressing issues and legal needs. The program is able to identify developments, problems and needs in substantive areas not aligned with or expressly covered by any existing specialty units or practice concentrations it may employ.

The program has in fact, when viewed over time, made adjustments in its goals and objectives in response to such emerging issues and needs, including emergency changes where necessary, *e.g.*, to respond to major natural disasters, or changes in law or policy, and also including, where necessary and appropriate, modifications in specialized units and practice concentrations.

Areas of Inquiry

Has the program identified events during the past twelve months, or since the last formal assessment, which compel or suggest the need for change in goals or objectives? Has it actually made changes? Has it done so on an emergency basis if necessary?

How do such identified events compare with those identified by others outside the program?

What screening for other types of problems is done at intake? What systematic review of intake and intake data is done to identify repetitive problems?

What specialty units or practice concentrations does the program employ? Does it identify needs and problems, and accept cases, outside of those areas?

Criterion 2. **Setting goals and objectives, developing strategies, and allocating resources.** In light of its comprehensive and ongoing assessments of need, and its available resources, the program periodically sets explicit goals and objectives and develops strategies to achieve them. Insofar as possible, these objectives should be expressed in terms of desired outcomes for both individual clients and the low-income population as a whole or any of its major segments, as may be applicable. The program should then consider and adopt strategies for its delivery approaches and its representation and advocacy that are calculated to achieve the goals and objectives. Next, the program should express its objectives, to the extent possible, in terms of outcomes that can be measured or assessed, and allocate and target its resources, consistent with these goals, objectives, and strategies. To the extent that pressing legal needs have been identified which the program will not, because of resources or other limitations, be able to address directly through such full representation, the program should consider what other methods, including innovative or alternative delivery approaches, other legal assistance activity, or collaboration with or referral to other entities, might be employed to provide some measure of assistance to affected individuals or communities.

Indicators	Areas of Inquiry
The program periodically articulates the problems it intends to address and the goals and objectives it seeks to achieve, expressed to the extent possible in terms of specific desired outcomes, and communicates these goals and objectives. Staff are aware of the goals, objectives, and desired outcomes.	Has the program set forth specific goals and objectives for its legal work in major substantive areas, or through its projects, specialty units, or branch offices? Were the strategies selected after consideration of a full range of available legal representation and advocacy approaches? Are the strategies selected reasonable and promising? Are resources allocated accordingly?
Strategies are developed to achieve the specified objectives. These strategies are reasonably calculated to achieve the specified objectives, and are reevaluated regularly and modified as appropriate.	Are staff aware of the goals, objectives, and case acceptance policies?
Resource allocation and staffing responsibilities reflect such objectives.	Are there identified pressing problems that the program goals and objectives do not address? Are there other sources of assistance to help address those problems that are being utilized?
In targeting resources, the program weighs the likely costs to be incurred against the likely benefit for clients and other low-income people.	Do the program's case acceptance policies provide clear guidance regarding the legal work it will undertake and the cases it will accept?
Specialized units and practice concentrations reflect such objectives, including such modifications as may be appropriate from time to time.	Do the case acceptance policies reasonably relate to the objectives it has identified?
The program has explicit, clear and specific case acceptance policies, consistent with these goals and objectives, and staff are aware of them.	Has the program considered alternative delivery approaches? Has it assessed their likely benefit? Were the consideration and assessment thoughtfully and carefully done?

Indicators

With respect to pressing legal needs that the program does not have sufficient resources to address through full representation, or which do not require such representation to achieve the outcomes desired, it considers the possibility of alternative approaches such as providing advice only, limited or brief service, group clinics, interactive aids available through the Internet, kiosks or other technologies, other self-help materials, community legal education, training of, collaboration with and referral to other providers, and other available responses. Before employing such alternatives, the program assesses their likely effectiveness for individual clients and the low-income population, and continues to make such assessments on an ongoing basis.

When setting goals and objectives, the program considers the need for legal assistance in all types of civil legal cases and all types of representation identified through its assessment processes that are consistent with funding requirements and restrictions, without regard to whether it has current staff expertise or specialization in the particular area, making its decision on the basis of what areas of work are most important to meet the most pressing legal needs of the eligible client population.

Areas of Inquiry

Is the program open to considering representation in all types of civil legal problems consistent with funding requirements and restrictions, or does it rule out certain types of cases or representation, *e.g.*, transactional work, because of a current lack of expertise, specialty units, or capacity on staff?

Criterion 3. **Implementation.** The program implements these goals, objectives, and strategies, working to achieve the desired outcomes, through legal representation and assistance, advocacy, and other program work.

Indicators	Areas of Inquiry
Given the goals, objectives, and strategies, effective advocacy approaches are selected, after considering all possible forums, legal approaches and available methods of achieving the desired outcomes, in light of what is appropriate, likely to succeed, and cost-effective.	What are the advocacy and delivery approaches undertaken by the program? What options and approaches have been considered to address the issues that have been targeted or have been presented? Is the scope of options considered comprehensive and thoughtful? Which options and approaches have been adopted? How successful were the chosen strategies?

Criterion 4. Evaluation and adjustment. The program regularly analyzes and evaluates the effectiveness of its delivery strategies and work, in major part by comparing the results actually achieved with the outcomes originally intended, and utilizes this analysis and evaluation to make appropriate changes in its goals, objectives, strategies, and legal assistance activity. Such adjustments should be made on a flexible and ongoing basis, not just after the periodic comprehensive assessments**.**

Indicators

The program engages in ongoing evaluation, both formal and informal, of the effectiveness of its delivery strategies and work, and makes changes in program goals, objectives, and strategies where indicated by such internal or other external evaluations.

The program regularly collects information and analyzes the effectiveness of its work, especially in achieving the articulated objectives and desired results.

In its analysis and evaluation, the program considers the perspectives of clients and affected members of the low-income population, advocacy and other organizations that serve it, and others in a position to judge the effectiveness of the program's efforts.

The evaluations carefully examine the reasons why particular strategies and approaches did or did not work, and whether alternative or innovative methods hold greater potential for future success.

In considering adjustments, the program examines available information concerning the effectiveness of other legal assistance providers in the service area.

After considering evaluations of its work and all other relevant information, the program in fact makes appropriate adjustments in its goals, objectives, strategies, and legal assistance activities.

Areas of Inquiry

What processes does the program use to assess the effectiveness and results of its work on an ongoing basis? Do program staff examine the effectiveness of the program's advocacy? Does the program generate regular reports?

Does the program make use of other available information and data concerning the target population and its needs, as well as delivery, representation, and advocacy approaches that have worked in similar circumstances? Does the program show evidence of periodically adjusting its approach to pressing client issues and needs after self-assessment and evaluation?

In between periodic formal needs assessments, is the program continually engaged on a number of levels with the population it is serving? Does the program engage members of the client population in discussions of the results of the program's work? Are evaluations documented, inclusive of the views of a wide range of individuals and organizations likely to have helpful perspectives and information, and thoughtful in their analysis? Is there evidence that the program actually made changes in goals, objectives, strategies, or work after such evaluations?

What results have been achieved by the program's advocacy? Are results or significant progress reported with regard to each of the substantive objectives identified by the program?

What have been the principal benefits for clients as a result of the program's advocacy?

PERFORMANCE AREA TWO. Effectiveness in engaging and serving the low-income population throughout the service area.

A program must have effective relations with its clients, on both an individual and service area-wide basis. Performance Area Two sets forth the core values and tenets for creating and maintaining effective relations with clients.

Criterion 1. Dignity and sensitivity. The program conducts its work in a way that affirms and reinforces the dignity of clients, is sensitive to clients' individual circumstances, is responsive to each client's legal problems, and is culturally and linguistically competent.[10]

Criterion 2. Engagement with the low-income population. The program is engaged effectively with the population eligible for its services, including major and distinct segments of that population and, where appropriate and feasible, incorporates perspectives from that population and its major segments in its work and operations.[11]

Criterion 3. Access and utilization by the low-income population. Consistent with its goals, objectives, and strategies, a program should, within the limits of its resources, be accessible to and facilitate effective utilization by the low-income population in its service area, including all major segments of that population, and all categories of people who traditionally have had difficulties in getting access to or utilizing civil legal assistance.[12]

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[10] ABA Standard 2.4 (on Cultural Competency)
ABA Standard 2.5 (on Staff Diversity)
ABA Standard 4.1 (on Provider's Intake System)
ABA Standard 4.2 (on Establishing a Clear Understanding)
ABA Standard 4.6 (on Communication in the Primary Languages of Persons Served)
ABA Standard 6.1 (on Characteristics of Staff)

[11] ABA Standard 1.2 (on Governing Body Members' Responsiveness to the Communities Served)
ABA Standard 2.1 (on Identifying Legal Needs and Planning to Respond)

[12] ABA Standard 4.5 (on Access to Services)

Criterion 1. **Dignity and sensitivity.** The program conducts its work in a way that affirms and reinforces the dignity of clients, is sensitive to clients' individual circumstances, is responsive to each client's legal problems, and is culturally and linguistically competent.

Indicators

Consistent with the applicable rules of professional conduct and funding requirements, and within the limits of the legal assistance that the program has agreed to provide a particular client, the program identifies and attempts to achieve each client's objective.

Program operations are carried out in ways that affirm client dignity and are sensitive to client circumstances.

The program has effective methods to assess clients' reactions to its services, and addresses problems identified through such assessments.

Legal Services programs in a state, and to the extent feasible other legal assistance providers in that state, collaborate so that clients do not experience multiple referrals before they reach the provider that will offer the maximum level of service.

Program services, communications and activities are conducted in a culturally and linguistically competent fashion, and reach the significant low-income population segments, given the program's explicit goals and objectives and available resources.

The program places primary importance on establishing a relationship of trust and confidence with each client, ensuring that each client understands the scope of representation, adhering to the client's objectives, and informing and consulting with the client about all significant developments in the matter.

Areas of Inquiry

Does the intake policy and procedure reflect a concern for the client's needs? Are office hours convenient, including for those who work, such as being available during lunch or in the evening? How long are clients required to wait for an eligibility determination? For an initial substantive interview? For a determination of case acceptance? Are clients required to return more than once for such determinations? What is done for those for whom access is limited by geography, disability, limited English proficiency, or other factors?

Is telephone intake conducted so as to minimize waiting time and the possibility of lost calls, such as by offering callback or other alternatives? How long are clients kept in queue? Are they offered information during the time in queue?

If representation is limited or denied, how are clients informed? Is there notification of a grievance procedure? Is there referral of clients who are denied service or given limited assistance?

How well does the program keep clients informed of developments in their case? Are clients consulted if a significant change in case strategy is contemplated?

What is the reputation of the program among client and community groups? What do they say about telephone and in-person reception and intake? About the courtesy extended to clients by program staff? How does the program gauge client satisfaction?

Areas of Inquiry

From observations of facilities: Are waiting rooms clean and comfortable? Are educational materials available in the waiting rooms? Is privacy provided for interviews, intake (by telephone or in-person), and for client meetings?

Do the Legal Services providers in the state articulate and follow a policy of minimizing the number of times a client is referred from one provider to another? Is this followed by non-LSC funded legal assistance providers as well? Do potential clients experience a seamless and efficient referral from their first point of contact to the eventual provider of service, without unnecessary delay? Does the program facilitate referrals to other non-LSC providers, including Web-based resources?

Does the program provide cultural competency training for staff? Are the staff reasonably diverse? Do they reflect the diversity of the community served? Does the staff demonstrate cultural sensitivity in their work?

Criterion 2. <u>Engagement with the low-income population</u>. The program is engaged effectively with the population eligible for its services, including major and distinct segments of that population and, where appropriate and feasible, incorporates perspectives from that population and its major segments in its work and operations**.**

Indicators	Areas of Inquiry
Program staff regularly interact with the low-income population as a whole and its major segments.	Is the program aware of and does it do outreach to all major segments of the low-income population in its service area?
The program is known to, and has the trust and confidence of, the target population and its major segments. The program staff and governing body continually work to get information, perspectives, and advice from appropriate representatives of significant segments of the low-income client population on major program decisions concerning priorities, objectives, plans, and strategies, and where appropriate and effective, involve members of the low-income population in the program's work.	Do staff members attend meetings or other gatherings in the communities they serve? Is there regular communication and outreach through printed materials, television and radio, and the Internet, including where appropriate in languages other than English? Are there meetings with leaders of major organizations in the communities served, such as groups of tenants and parents, service providers, neighborhood associations, and similar entities? Are staff otherwise engaged with such organizations?
	Is there evidence of target population participation at board meetings or other forums?
	Is the program well known and respected among the low-income population and its major segments throughout the service area? Does the program represent eligible community groups?

Criterion 3. <u>Access and utilization by the low-income population</u>. Consistent with its goals, objectives and strategies, a program should, within the limits of its resources, be accessible to and facilitate effective utilization by the low-income population in its service area, including all major segments of that population, and all categories of people who traditionally have had difficulties in getting access to or utilizing civil legal assistance.

Indicators

The program regularly gathers and reviews information as to utilization by people who traditionally have access difficulties (seniors, youth, indigenous people, those with physical and mental disabilities, the geographically isolated, homebound, immigrants, people recently released from prison, people who are in institutions or incarcerated, those who are illiterate or marginally literate in any language, those with limited English-speaking ability, migrants, and others), and seeks to address, consistent with funding requirements and restrictions and within the limits of its resources and program priorities, any significant access problems revealed by such analysis. In conducting such analysis, the program utilizes available data sources and technological applications.

Consistent with program strategies and objectives and within the limits of its available resources:

- The program in fact provides services to each of the major low-income racial, ethnic, and limited English proficient populations in its area, and regularly assesses anomalies between caseload and service area demographics that suggest access barriers, and takes steps to address them.

- Program staff evidence knowledge of substantive issues and problems that have unique or disproportionate incidence or effect upon particular segments or categories of the low-income population.

Areas of Inquiry

What do community members say about access to and utilization of the program by people who traditionally have had difficulties in getting access to or utilizing civil legal assistance? Are program management and staff aware of the specific factors that affect particular populations' access to and utilization of the program, such as local transportation, particular cultural or linguistic barriers, divisions within the client population that may affect the willingness of one group to utilize the program's office, and other relevant factors? Do management and staff make deliberate and informed decisions regarding outreach to isolated population segments?

Has the program in fact identified isolated population segments and overcome specific barriers to their access to the program? Has the program engaged in periodic assessment of their effectiveness and addressed inadequacies?

Are staff and management able to articulate specific substantive issues that affect particular isolated populations in the program's service area?

Do such staff articulations conform to the issues identified by community members? Has the program considered these specific issues as it has developed its goals, objectives, and strategies?

Facilities review – was there actual observation of methods for providing services to non-English speaking people, the disabled, and other groups that traditionally have access difficulties?

Program offices, office hours, intake and telephone procedures, language capabilities of staff, procedures for communicating with non-English speaking people, and other facilities and procedures are all reasonably calculated to achieve the broadest possible access and utilization by clients, including populations with traditional access difficulties, and make reasonable accommodation for their special needs.

Areas of Inquiry

Was there actual observation of telephone and in-person reception and intake systems? Was there review and evaluation of office setting and office hours?

Is the program in fact readily accessible to persons eligible to be clients? Are program offices easy to find and clearly marked? Are they accessible to public transportation? Is there accessible parking? Do office hours make it possible for the working poor to seek services? Are facilities accessible to disabled persons?

Are forms, community education materials, letters to clients and other communications written at a level that marginally literate persons can understand? Do staff have clear protocols of how to work with persons of any language who are illiterate?

PERFORMANCE AREA THREE. Effectiveness of legal representation and other program activities intended to benefit the low-income population in the service area.

Performance Area Three addresses the program's implementation of its goals, objectives, and strategies through the delivery of services. These services include direct legal representation, activity by private attorneys, and additional services and efforts to benefit the low-income population.[13]

Criterion 1. <u>Legal representation</u>. The program conducts its direct legal representation, in both full and more limited forms, in an effective and high-quality fashion which comports with relevant state requirements, governing professional ethics and practice of law, funding source requirements, relevant portions of the ABA Standards for the Provision of Civil Legal Aid, and these Criteria, and in particular:

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[13] Section 7 of the ABA Standards, Standards for Practitioners, referred to below are particularly valuable supplements to the Performance Criteria because they are addressed to advocates and contain detailed guidance on aspects of practice that programs should reinforce as applicable. These Standards provide guidance for effective lawyering in a broad range of advocacy from advice through litigation strategy to appellate practice. It is the program's responsibility to ensure that its advocates employ effective practice standards.

ABA Standard 7.1 (on Establishing an Effective Relationship and a Clear Understanding with the Client)
ABA Standard 7.2 (on Client Participation in the Conduct of Representation)
ABA Standard 7.3 (on Practitioner's Responsibilities to Protect Client Confidences)
ABA Standard 7.4 (on Initial Exploration of the Client's Legal Problem)
ABA Standard 7.5 (on Investigation)
ABA Standard 7.6 (on Legal Analysis and Research)
ABA Standard 7.7 (on Case Planning)
ABA Standard 7.8 (on Legal Counseling)
ABA Standard 7.9 (on Negotiation)
ABA Standard 7.10 (on Alternative Dispute Resolution)
ABA Standard 7.11 (on Litigation)
ABA Standard 7.11-1 (on Litigation Strategy)
ABA Standard 7.11-2 (on Pleadings)
ABA Standard 7.11-3 (on Motion Practice)
ABA Standard 7.11-4 (on Discovery)
ABA Standard 7.11-5 (on Trial Practice)
ABA Standard 7.11-6 (on Enforcement of Orders)
ABA Standard 7.11-7 (on Appeals)
ABA Standard 7.12 (on Administrative Hearings)
ABA Standard 7.13 (on Legislative and Administrative Advocacy by Practitioners)
ABA Standard 7.14 (on Practitioner's Responsibilities in Limited Representation)
ABA Standard 7.15 (on Transactional Representation)
ABA Standard 7.16 (on Representation of Groups and Organizations)
ABA Standard 7.17 (on Maintenance of Professional Competence)

a. The program has in place adequate capacity to carry out its work, insofar as its resources permit.[14]

b. The program utilizes systems, approaches, and techniques sufficient to ensure that the representation is carried out with maximum effectiveness.[15]

c. The program's legal representation achieves as much as is reasonably attainable for the client, given the extent of the representation, the client's objectives, and the circumstances of the case. Consistent with applicable rules and decisions governing professional responsibility, program goals and objectives, client objectives, and funding requirements, in its representation and work the program maximizes the use of its resources and achieves in its representation and work the greatest possible benefits and systemic solutions for other low-income people who may face similar legal problems, and for the eligible population as a whole.[16]

Criterion 2. **Private attorney involvement.** The program effectively integrates private attorneys in its work in order to supplement the amount and effectiveness of its representation and other services to achieve its goals and objectives.[17]

Criterion 3. **Other program services to the eligible client population.** Consistent with its goals, objectives, and strategies, the program provides services in addition to direct client representation that are designed to help low-income people address their legal needs and

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[14] ABA Standard 4.1 (on Provider's Intake System)
ABA Standard 4.2 (on Establishing a Clear Understanding)
ABA Standard 6.1 (on Characteristics of Staff)
ABA Standard 6.2 (on Assignment and Management of Cases and Workload)
ABA Standard 6.3 (on Responsibility for the Conduct of Representation)
ABA Standard 6.5 (on Training)
ABA Standard 6.6 (on Providing Adequate Resources for Research and Investigation)

[15] ABA Standard 2.9 (on Use of Non-attorney Practitioners)
ABA Standard 2.10 (on Effective Use of Technology)
ABA Standard 4.1 (on Provider's Intake System)
ABA Standard 5.1 (on Eligibility Guidelines)
ABA Standard 5.2 (on Policy for Acceptance of Applicants for Service)
ABA Standard 6.2 (on Assignment and Management of Cases and Workload)
ABA Standard 6.4 (on Review of Representation)
ABA Standard 6.5 (on Training)
ABA Standard 6.6 (on Providing Adequate Resources for Research and Investigation)

[16] ABA Standard 2.6 (on Achieving Lasting Results for Low Income Individuals and Communities)
ABA Standard 3.1 (on Full Legal Representation)
ABA Standard 3.4 (on Limited Representation)
ABA Standard 3.4-1 (on Representation Limited to Legal Advice)
ABA Standard 3.4-2 (on Representation Limited to Brief Service)

[17] ABA Standard 2.7 (on Integrating the Resources of the Legal Profession and Involvement of Members of the Bar)
ABA Standard 2.8 (on Relations with the Organized Bar)

problems. Such services may include, but are not limited to, community legal education (general legal information not predicated upon a client's particular case or facts), assistance for self-help activities and *pro se* appearances, offering or facilitating participation in alternative dispute resolution, and other available approaches, utilizing the Internet, websites, interactive media, and other available technologies as appropriate. The program continually seeks to find innovative ways to deliver services and meet client needs.[18]

Criterion 4. <u>Other program activities on behalf of the eligible client population</u>. Consistent with its goals, objectives, and strategies, and within the limits of available resources and the terms of its funding, a program engages in other activities on behalf of its eligible client community that have a beneficial effect on systemic legal problems and economic opportunities of the eligible client population. These activities include, but are not limited to, communication and liaison with the judiciary, organized bar, government agencies, academic and research centers, social service agencies, and other information sources, state and national legal advocacy organizations, other organizations working on behalf of low-income people, and other entities whose activities have a significant effect on the eligible client population.[19]

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[18] ABA Standard 2.10 (on Effective Use of Technology)
ABA Standard 3.3 (on Community Economic Development)
ABA Standard 3.5 (on Assistance to Pro Se Litigants)
ABA Standard 3.6 (on Provision of Legal Information)

[19] The ABA Standards listed below emphasize the importance of collaboration with partners in addressing issues affecting low-income persons and communities.

ABA Standard 2.3 (on Participation in Statewide and Regional Systems)
ABA Standard 2.8 (on Relations with the Organized Bar)
ABA Standard 2.12 (on Institutional Stature and Credibility)

Criterion 1. **Legal representation**. The program conducts its direct legal representation, in both full and more limited forms, in an effective and high-quality fashion which comports with relevant state requirements governing professional ethics and practice of law, funding source requirements, relevant portions of the ABA Standards for the Provision of Civil Legal Aid, and these Criteria, and in particular:

a. The program has in place adequate capacity and resources to carry out its work, insofar as its resources permit.

Indicators

Adequate capacity and resources include but are not limited to:

- Diverse casehandlers and support staff who are qualified to do the work assigned, have necessary expertise in the legal areas in which the program works, have the commitment, cultural competency, language capacity, skill, and preparation necessary to carry out their responsibilities.

- Access to necessary law library and research capacity, including prior relevant work produced by the program and other similar providers.

- Necessary up-to-date equipment and technology to support law office work.

- Adequate access to experts and litigation support systems.

- Systems for ongoing evaluation of the effectiveness of legal work, at both program-wide and individual casehandler levels, examining both the results obtained and the efficiency and quality of the methods utilized to produce those results.

- Other relevant representation support systems, including a uniform system for maintaining client files, a system for noting and meeting deadlines in representation, and a system for handling client trust funds separate from provider funds.

Areas of Inquiry

What is the experience level, education, and knowledge of staff?

- Experience in legal services?
- Other relevant experience?
- Knowledge of relevant aspects of substantive law and procedure?
- Cultural competency?
- Language capacity?

Are advocates aware of key issues related to their areas of substantive work? Do they regularly consider the relationship between individual case issues and the broader issues affecting the client community? Does the program have strategies and procedures in place to stay abreast of relevant developments and issues affecting the low-income population? Can staff discuss new legal developments and the relationship of such developments to their cases? Do they stay in touch with resources that are likely to keep them apprised of new developments and methodologies, such as specialized organizations and list serves? Are staff able to identify key client issues outside of their areas of expertise?

Does the program have a comprehensive knowledge management strategy, so that it collects and retains information and documents from staff and others in a readily accessible fashion? Are the documents and information in fact used?

Is there significant state and federal on-line research capacity available to all casehandlers and advocates?

Indicators

- Internal performance standards which express expectations for casehandlers and other staff.

Where necessary to meet the identified most pressing needs of the eligible client population, the program takes such steps as are required to develop the capacity to do the type of case or representation. Such steps may be more frequently required to deal with legal problems or types of representation, *e.g.,* transactional work, which are traditionally less common in Legal Services program caseloads. Where necessary, the program supplements its staff capacity with outside expertise.

Areas of Inquiry

Do all staff have reasonably up-to-date computers, software, telephone systems and other technology? Are intake, case management, statistics, production of routinized legal work, legal research, document assembly, and inter- and intra-office communications thoroughly integrated with the program's telephone and computer system? Is other appropriate up-to-date technology available and utilized?

Do program advocates appropriately consider and utilize experts in their representation of clients? Does the program have a policy that encourages and pays for the costs of necessary discovery, such as depositions, and do case-handlers routinely use all appropriate methods of discovery?

Are staff members aware of the policy and procedures for approval of such expenditures?

Does the program have systems in place to gauge the efficiency and effectiveness of work by case type and activity, including systems to collect information about and assess the results of its work?

Does the program have systems and written policies regarding case file maintenance standards, multiple tickler systems, case docketing, and a central calendar?

Are the systems utilized by staff? Do they describe them the same way as their supervisors and the written policy?

Does the program conduct periodic review of open cases?

Does the program have written performance standards for staff?

Has the program recently developed new staff capacity in additional areas of law or types of representation, after they have been identified through a periodic or ongoing needs assessment or in response to changes in the law?

b. The program utilizes systems, approaches, and techniques sufficient to ensure that the representation is carried out with maximum effectiveness.

Indicators

The program utilizes:

- Intake systems and case acceptance procedures that follow program priorities and case acceptance policies and restrictions, clearly describe the appropriate roles for both intake and casehandling staff, and adequately capture all relevant information and encourage exploration of appropriate issues beyond the problem identified by the client.

- Case assignment procedures that appropriately take account of staff expertise and capacity, staff caseload and other work responsibilities, and other factors affecting the ability of staff to provide representation, and effectively maximize the benefits and minimize the drawbacks of specialization.

- Effective supervision of legal work, which includes regular and detailed supervisory review of cases.

- Effective training and personnel development policies and procedures, with sufficient training, either within the program, at the state level, or utilizing outside resources, to ensure that staff receive necessary initial instruction and continue to learn and stay abreast of new legal developments, strategies, and techniques.

- Effective utilization of available outside resources, expertise, and other support.

Areas of Inquiry

Is appropriate information gathered at each step of the process to support necessary decisions? Do staff have adequate expertise for the interview for which they are responsible? Are priorities and case acceptance policies followed? Are expectations and roles for staff clearly expressed? Does the program use technology appropriately to support the intake and case acceptance process? Does the program regularly review case acceptance policies and adjust them as necessary and appropriate?

Is there an effective program policy regarding appropriate caseloads?

How does the program keep track of and manage caseloads?

Has the program undertaken a thoughtful analysis of the benefits and drawbacks of specialization, in the context of its funding, staff size, geographical service area, office locations, emergent client need, and other relevant factors? Has this analysis guided the program's actual decisions?

How are case assignments made? Are the appropriate staff responsible for case assignment?

Is there a clear system for the supervision of employees and of legal work? Is it written? Does the program review significant legal work and hold moot courts in significant cases? Are lines of authority and responsibility clear? Do supervisors know what is expected of them? Does the system include regular affirmative supervisory review of cases? Is the system and procedure followed with a frequency for each staff member appropriate to the staffer's level of

Indicators	Areas of Inquiry
• Specific case handler standards that address such issues as file maintenance practices and documentation of case activity.	experience and recent performance? Is the supervisor engaged in oversight of the development of case objectives and strategies? Are the supervisory efforts also reviewed regularly by more senior supervisors? Does the program have a clear policy with regard to training and staff development? Is it followed? Is there effective training and orientation of new employees? Are there individual professional development plans that are periodically updated? Is there sufficient training for managers, supervisors, casehandlers, and other program staff? Are there regular staff evaluations? Does program staff make use of available support from state and national advocacy and information organizations? Do they utilize other outside resources when possible? Is there a coordinated and integrated system for sharing in-house expertise? Does the program and its staff systematically contribute to and utilize knowledge management efforts, including electronic and other document and form banks, intellectual work product files, web sites, task force and other in-house list serves, and similar efforts? Are there written standards for casehandlers?

Indicators

Individual staff engage in:

- Appropriate problem diagnosis and definition that elicits pertinent facts, identifies the relevant legal issues and apprises the client of likely next steps and developments to be expected.

- Development and ongoing refinement of case objectives and strategy, including definition of the lawyer's role and the choice of the most effective forum (e.g., court, legislative body, administrative agency, alternative dispute resolution forum, other), with appropriate input from the client at relevant points.

- Effective implementation of the case strategy, including appropriate and high-quality pursuit of informal, non-adversarial strategies, negotiation and settlement, alternative dispute resolution, preparation of pleadings and motions, conduct of necessary discovery, preparation for and conduct of hearings and trials, pursuit of necessary appeals (within program guidelines), memorialization and enforcement of judgments, and pursuit of representation in non-judicial forums or approaches other than litigation.

Areas of Inquiry

Is the casehandler able to demonstrate from discussion of case files that the indicators are satisfied?

Did the advocate develop and take necessary steps to implement a coherent case strategy? Did the advocate appropriately use other available resources in pursuing the case? Did the advocate reassess the strategy appropriately as the case progressed?

Was the client's problem considered in relation to other similar problems, in order to assess whether strategies to achieve broader impact would be more efficient and appropriate?

Was the client informed and consulted in the formulation of the case objectives and major assessments of advantages, disadvantages, and risks in various options as the case was pursued?

What is the quality of analysis, and of the strategic options pursued? Were the most appropriate avenues for advocacy and representation pursued? Were the methods selected executed in a high-quality and effective way?

Indicators

To the extent a program engages in limited representation, as distinguished from full representation, in addition to the foregoing processes and indicators that are applicable, it:

- Takes steps to ensure that the client understands and agrees to accept the more limited form of assistance, consistent with the applicable rules of professional conduct and the ABA Standards for the Provision of Civil Legal Aid.

- Periodically evaluates the effectiveness of such limited representation for the clients it is intended to benefit, and then makes such adjustments in scope and approach that may be indicated in order to increase effectiveness.

- Takes steps to increase the likelihood that, as may be indicated in the circumstances, each particular client understands and is able to benefit from the limited assistance that the program is attempting to give, including appropriate follow-up steps where indicated.

- Utilizes available external information, studies and analyses, as well as the program's own experience, in making the determination as to which types of eligible client populations, individual clients and legal problems benefit most, and least, from the various forms of limited representation.

- Ensures, if it provides such limited representation as its sole or predominant delivery approach, that it does so as a part of a more comprehensive delivery system in the service area in which other, non-LSC entities provide a full range of services, including full representation.

- Utilizes available technology to assist in such service delivery.

Areas of Inquiry

In general, has the program given careful thought to the likely effectiveness of limited representation for the particular types of cases and problems? Are its conclusions reasonable, given all of the relevant circumstances?

Does the program effectively explain the nature of the limited representation to the client?

Does the program evaluate the effectiveness of its limited representation efforts, and make indicated changes?

Does the program follow up with clients to make the representations as effective as possible?

Has the program thoughtfully considered which types of clients are best able to benefit from limited representation? Are its conclusions reasonable?

Is there evidence that the limited representation fits into a comprehensive system which also provides full representation?

Is there effective use of technology in delivery?

For cases that the program refers to other providers in certain substantive areas, does it have clear referral protocols with the receiving program?

c. The program's legal representation achieves as much as is reasonably attainable for the client, given the extent of the representation, the client's objectives, and the circumstances of the case. Consistent with applicable rules and decisions governing professional responsibility, program goals and objectives, client objectives, and funding requirements, the program maximizes the use of its resources and achieves in its representation and work the greatest possible benefits and systemic solutions for other low-income people who may face similar legal problems, and for the eligible population as a whole.

Indicators

Results achieved are consistent, to the extent reasonably achievable, with the client's objectives.

Results have achieved as much as reasonably attainable for the client, given the circumstances of the case, and, consistent with applicable rules and decisions governing professional responsibility, also have achieved as much as reasonably possible for other low-income people similarly situated, and for the eligible population as a whole.

The program tracks the benefits it achieves for clients through representation and other activities.

Areas of Inquiry

What does the casehandler describe as the results of representation? What is the relationship of the results to the client's objectives? What was reasonably attainable in the case? What in fact was attained? Was there a benefit to other low-income people with a similar problem, or for the client population as a whole? Did the program and casehandler seek to maximize any such benefits? Is it clear from the casehandlers' responses to questions about the files that they took reasonable steps on behalf of the client — affirmative defenses, counterclaims, joinder of other parties, discovery and other opportunities for investigation and development of claims, use of experts, pursuit of motions, trial preparation and conduct, pursuit of appeals — as appropriate to the particular case?

What information does the program collect and use about the benefits it achieves for clients and the communities in which they live?

Criterion 2. **Private attorney involvement.** The program effectively integrates private attorneys in its work in order to supplement the amount and effectiveness of its representation and other services and achieve its goals and objectives.

Indicators

The program has a private attorney involvement system and plan that seeks to fully involve private attorneys in the program's delivery of legal services to eligible clients, and that includes effective recruitment, training, referral, support, oversight, evaluation, and recognition. Where necessary and feasible, the program addresses typical needs of private attorneys handling cases, such as malpractice coverage, costs of experts, depositions and the like (to the extent they would be addressed for program staff handling such cases), form pleadings, practice manuals, costs, and other issues.

Subject to availability, the program utilizes private attorneys in a full range of program activities, including direct representation (both full and limited), counsel or support in major and complex litigation, transactional work, community legal education, assistance to *pro se* parties (including clinics), training, representation in non-judicial forums, and other work.

In general, the program is thoughtful and innovative in the ways that it uses the services of available private attorneys.

Areas of Inquiry

Does the program have a thoughtful, comprehensive and effective written private attorney involvement plan which seeks to engage private attorneys in a wide range of program activities, consistent with the possibilities and practicalities presented by the private bar in the particular service area? Is it followed?

Have the program's recruitment efforts been successful? How many private attorneys have signed up to take *pro bono* cases? How many private attorneys took *pro bono* cases within the last twelve months? How many private attorneys have signed up to take Judicare cases? How many private attorneys took Judicare cases within the last twelve months? Are Judicare cases assigned to attorneys directly rather than requiring clients to work from a list?

How do referrals to private attorneys compare with the stated goals and objectives of the program? If they are not consistent, what is the explanation? Who decides which cases are sent to the private bar? What criteria are used?

What do private attorneys say about their work with the program? Does the staff support the private attorney involvement component? Does the director?

Are procedures for referral, oversight, and follow-up effective and reasonable? Are they written and are they followed? How does the program gauge client satisfaction?

What training is offered to participating attorneys? Does the program address private attorney support needs effectively?

Is there private attorney involvement in the wide range of program activity specified in the Indicators? If not, are there appropriate explanatory factors and justifications? Has the program been thoughtful and innovative in the ways that it utilizes private attorneys?

Is there effective recognition of contributing attorneys?

Criterion 3. **Other program services to the eligible client population.** Consistent with its goals, objectives, and strategies, the program provides services in addition to direct client representation that are designed to help low-income people address their legal needs and problems. Such services may include, but are not limited to, community legal education (general legal information not predicated upon a client's particular case or facts), assistance for self-help activities and *pro se* appearances, offering or facilitating participation in alternative dispute resolution, and other available approaches, utilizing the Internet, websites, interactive media, and other available technologies as appropriate. The program continually seeks to find innovative ways to deliver services and meet client needs.

Indicators

To the extent that the program engages in community legal education work, it:

- Has in place adequate capacity and resources to carry out its work, and stays abreast of, compiles and utilizes relevant material previously produced by others.
- Selects a clearly defined audience for the community legal education activity, consistent with program goals, objectives, and desired outcomes.
- Utilizes the most appropriate methods, given the subject matter, the audience, and available resources. Methods considered should include Web sites, written materials, videos, computers, other audiovisual technology, and in-person presentations, including meetings and trainings.
- Communicates effectively with its intended audience, in ways that are culturally and linguistically competent and understandable to an audience with low literacy skills.
- Conducts periodic evaluations of the effectiveness of its community legal education efforts, measured against objectives, expectations, and realistic possibilities, and compares the costs of the results achieved with the costs of achieving equivalent or better results through other methods.
- Attempts to assess results, including efforts to assess actual outcomes for individuals who were the target of the community legal education activity.

Areas of Inquiry

Are the objectives of the community legal education effort clear and reasonable? Do they relate appropriately to the program's goals and objectives? Is the approach designed to educate its target population effectively?

Does the program creatively use written materials, videos, computers, audiovisual, and other available technology?

Is the target audience considered in determining the methods used?

Does the program evaluate the effectiveness of its community legal education efforts in light of the costs involved?

Does the program collaborate appropriately with other providers and social service agencies in the writing and distribution of community education and client self-help materials?

Indicators

To the extent that the program facilitates self-help or *pro se* efforts, including Internet-based material and interactive technologies, the program:

- Has in place adequate capacity and resources to carry out such work, and compiles available relevant information on the strengths and weaknesses of such *pro se*, self-help efforts.

- Experiments with and where indicated utilizes a range of self-help assistance strategies, including development of self-help materials and videos, clinics and other group sessions, media, training other agencies, groups and individuals to be presenters, Internet-based materials, kiosks, and other available technologies.

- Utilizes past experiences, research, and evaluation to design future program strategies.

- Targets a clearly defined audience which has the ability to carry out self-help activities in the legal problem areas chosen for concentration.

- Effectively informs and assists its intended audience, and then regularly assesses the effectiveness and limitations of such efforts, evaluating whether the potential dangers and weaknesses of *pro se* approaches are outweighed by the benefits, and whether the program and client objectives are being met effectively, consistent with applicable rules and decisions of professional responsibility To the extent possible, assesses the benefits achieved by persons assisted by *pro se* efforts in relation to the costs of those efforts and compared to the results achieved by persons assisted by other methods.

The program deliberately seeks to experiment with alternative and innovative means of providing assistance to low-income people in legal matters.

Areas of Inquiry

Has the program given consideration to *pro se* alternatives where appropriate?

Are persons who proceed *pro se* successful? How does the program know?

How does the program address the need for individualized help for *pro se* persons? How many are assisted?

Has the program carefully considered the extent to which it will provide follow-up assistance to *pro se* litigants? Has it coordinated its *pro se* efforts with the courts? Is the program aware of the areas in which self-help clients are most likely to fail or drop out? Has it attempted to develop means to address those “failure points”?

Does the program experiment with alternative delivery approaches, or otherwise demonstrate innovation?

Criterion 4. **Other program activities on behalf of the eligible client population.** Consistent with its goals, objectives, and strategies and within the limits of available resources and the terms of its funding, a program engages in other activities on behalf of its eligible client community that have a beneficial effect on systemic legal problems and economic opportunities of the eligible client population. These activities may include, but are not limited to, communication and liaison with the judiciary, organized bar, government agencies, academic and research centers, social service agencies, and other information sources, state and national legal advocacy organizations, and other entities working on behalf of or serving low-income people, whose activities have a significant effect on the eligible client population.

Indicators

Consistent with its goals and objectives, as a part of its strategic advocacy, a program maintains effective communication, coordination, and a general presence with the indicated institutions and entities and any others that can have a significant effect on its target population, to the end of reducing the effect or extent of problems faced by that population through collaborative work.

To the extent that a program engages in such activities, it should have contacts, credibility, reputation, and experience sufficient to allow it to conduct such activities effectively.

The program continuously evaluates the effectiveness of such activities, measured against program objectives and what was reasonably attainable, in relation to the costs of such efforts.

Areas of Inquiry

Are program staff aware of legislative developments that affect the low-income population in the service area? Have they considered strategies that address problems at policy levels?

Does the program expect and support work to address systemic legal problems and improved economic opportunities benefiting the low-income population? Does it collaborate with the private bar and others to achieve such change? Are program personnel engaged in undertakings such as committees and task forces that relate to program objectives? Do they have sufficient experience, reputation, and credibility to be effective?

Do staff work with government agencies, social service agencies, or research centers concerned with issues affecting the service area? Do they work with the organized bar and judiciary when possible to address legal access or other problems faced by the low-income population?

Does the program have access to and review current literature and research concerning innovations in delivery methods?

Is management aware of innovative possibilities and developments in legal services delivery and receptive to their application in the program?

Does the program train or have regular communication with lay professionals who work with low-income people?

PERFORMANCE AREA FOUR. Effectiveness of governance, leadership and administration.

Performance Area Four establishes that the program should be led and managed effectively with high-quality administrative systems, procedures and performance. Good leadership and strong internal operations increase the likelihood of effective services, and decrease the risk that effective program services will be adversely affected by organizational problems.

Criterion 1. Board governance. The program has effective board oversight and involvement in major policy decisions, including board members who are each committed to the program and its mission, and a board that holds program management accountable for effective performance in the areas delineated by these Criteria. The board also meets its affirmative responsibility to help develop resources for the program, promote awareness of the program, enhance its effectiveness and influence, and protect and defend the interests of the organization.[20]

Criterion 2. Leadership. The program has effective leadership which establishes and maintains a shared sense of vision and mission, and emphasizes excellence, innovation, and achievement of goals and objectives.[21]

Criterion 3. Overall management and administration. The program is well managed and administered including: an effective management structure; processes and systems to ensure compliance with all funder requirements and state and federal law; capacity to address problems quickly and effectively; effective utilization of technology; effective administrative procedures; competent personnel; allocation of appropriate resources to management functions; and periodic evaluations of administrative operations.[22]

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[20] ABA Standard 1.1 (on Overall Functions and Responsibilities of the Governing Body)
ABA Standard 1.1-1 (on Governing Body Oversight of the Provider)
ABA Standard 1.1-2 (on Prohibition Against Interference in the Representation of Clients)
ABA Standard 1.1-3 (on Fiscal Matters)
ABA Standard 1.1-4 (on Relations with the Chief Executive)
ABA Standard 1.1-5 (on Serving as a Resource to the Provider)
ABA Standard 1.1-6 (on Resource Development)
ABA Standard 1.2 (on Governing Body Members' Responsiveness to the Communities Served)
ABA Standard 1.2-1 (on Individual Members' Commitment to the Provider)
ABA Standard 1.2-2 (on Board Members from the Communities Served by the Provider)
ABA Standard 1.2-3 (on Training of Members of the Governing Body)
ABA Standard 1.2-4 (on Governing Body Members' Conflicts of Interest)
ABA Standard 1.3 (on Governing Body Communication with Low Income and Legal Communities)

[21] ABA Standard 1.1-4 (on Relations with the Chief Executive)
ABA Standard 2.12 (on Institutional Stature and Credibility)

[22] ABA Standard 2.10 (on Effective Use of Technology)
ABA Standard 2.11 (on Provider Evaluation)
See generally Section 5 of the ABA Standards, Standards for Internal Systems and Procedure (5.1 - 5.5)
See generally Section 6 of the ABA Standards, Standards for Quality Assurance (6.1 - 6.6)

Criterion 4. <u>Financial administration.</u> The program has and follows financial policies, procedures, and practices that comport with applicable requirements of the American Institute of Certified Public Accountants, federal, state, and local government, and the program's funding sources, and conducts effective budget planning and oversight.[23]

Criterion 5. <u>Human resources administration.</u> The program maintains effective human resources administration, including compliance with all applicable laws.[24]

Criterion 6. <u>Internal communication.</u> The program maintains effective intra-staff and staff-management communications and relations.

Criterion 7. <u>General resource development and maintenance.</u> To the extent possible, and consistent with the program's mission, the program seeks to maintain and expand its base of funding, with the goal of increasing the quality and quantity of the program's services to eligible clients. The program also coordinates with and where possible utilizes outside resources such as academic institutions, social service organizations, foundations, corporations, organized bar associations, members of the private bar, and other institutions and individuals to supplement its efforts. The program works to increase the overall resources devoted to the legal problems of the eligible client population.[25]

Criterion 8. <u>Coherent and comprehensive delivery structure.</u> Overall, the program management maintains a delivery structure and approach that effectively utilizes and integrates staff, private attorneys, and other components; emphasizes innovation and creativity in delivery; is informed by current information concerning delivery research; is well-suited to meeting the most pressing legal needs of the service area; and, given available resources, constitutes an effective and economical balancing of expenditures on the various functions and activities described in the four Performance Areas.[26]

Criterion 9. <u>Participation in an integrated legal services delivery system.</u> The program participates in, and seeks to expand and improve, statewide (and regional if relevant) legal assistance delivery systems to achieve equal access to justice and to meet the civil legal needs for low-income persons in the state.[27]

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[23] ABA Standard 1.1-3 (on Fiscal Matters)

[24] While the ABA Standards listed below are cited in support of effective human resources administration, they reflect values that are important to the operation of the program as a whole.

ABA Standard 2.4 (on Cultural Competence)
ABA Standard 2.5 (on Staff Diversity)
ABA Standard 6.1 (on Characteristics of Staff)

[25] ABA Standard 1.1-6 (on Resource Development)
ABA Standard 2.3 (on Participation in Statewide and Regional Systems)

[26] ABA Standard 2.2 (on Delivery Structure)

[27] ABA Standard 2.3 (on Participation in Statewide and Regional Systems)

Criterion 1. **Board governance.** The program has effective board oversight and involvement in major policy decisions, including board members who are each committed to the program and its mission, and a board that holds program management accountable for effective performance in the areas delineated by these criteria. The board also meets its affirmative responsibility to help develop resources for the program, promote awareness of the program, enhance its effectiveness and influence, and protect and defend the interests of the organization.

Indicators

The board is involved in major policy decisions, aware of issues in and performance of the program, while leaving day to day management of program operations to program management personnel. The board effectively evaluates the chief executive officer.

The board as a whole, and members individually, are committed to the program and its mission, are free from organizational or personal conflicts, attend meetings regularly, and as appropriate, assist in fundraising and development activity.

As a whole, the board is appropriately diverse and representative of the various geographical areas and low-income populations served by the program.

The board effectively promotes and expands the reach and influence of the program in the communities it serves, and develops additional resources for the program.

The board exercises effective financial oversight.

Areas of Inquiry

How are major policy decisions made? Is the board supportive of the program? Are its individual members? Do board members and officers understand the major issues at stake for the program? Are board members aware of and accurate in their perception of the requirements of the program's funding sources? Is the board aware of any major problems or issues within the program? How does the board exercise its oversight of program operations? Are board decisions appropriately documented in board minutes? Does the board exercise judgment independent of the executive director, where appropriate? How frequently does the board evaluate the executive director? Do board members assist effectively in fundraising and development activity? Is the board membership diverse and representative of the service area?

Are client board members actively engaged in board decision making?

Does the board have a policy or practice that effectively deals with conflicts of interest or potential conflicts of interest? Is the policy or practice in writing? Are organizational or individual conflicts addressed quickly and effectively?

Does the board meet its external responsibilities as delineated in this criterion?

Are board members given appropriate orientation and continuing training, including training on the role of the board, potential conflicts of interest, and on fiscal, fiduciary, and other responsibilities?

Does the board have a policy or practice regarding length of service on the board?

What is the level of attendance at board meetings?

What systems and procedures does the board have to ensure effective financial oversight?

Criterion 2. **Leadership.** The program has effective leadership which establishes and maintains a shared sense of vision and mission, and emphasizes excellence, innovation, and achievement of goals, and objectives.

Indicators	Areas of Inquiry
Key program staff, starting with the executive director or chief executive officer, are recognized as the program leaders. They frame a vision and inspire a culture of energy, creativity, innovation, excellence, and achievement, built on trust, confidence, integrity, and loyalty.	Starting with the chief executive officer, are there recognized, positive, and effective leaders in the program? Is there a shared sense of vision and mission? Is it expressed in written form? Are staff aware of it? Does the program leadership effectively inspire creativity and innovation, trust, confidence, integrity, and loyalty?
The program provides opportunities for the development of a diverse group of leaders.	Does the program provide opportunities for staff to develop and exercise leadership skills?
The program has a succession plan.	Does the program have a clear and reasonable succession plan? Is it written?

Criterion 3. **Overall management and administration.** The program is well managed and administered including: an effective management structure; processes and systems to ensure compliance with all funder requirements and state and federal law; a capacity to address problems quickly and effectively; effective utilization of technology; effective administrative procedures; competent personnel; allocation of appropriate resources to management functions; and periodic evaluations of administrative operations.

Indicators

The program devotes appropriate resources to management.

The program has a management structure that effectively uses middle managers.

The program has experienced, capable, and diverse management and administrative staff.

The program provides effective training, supervision, and evaluation of management and administrative staff.

The program undertakes periodic evaluation of management operations.

The program makes major decisions in a way that incorporates relevant information and input.

The program devotes appropriate resources to establish and maintain its technological infrastructure.

The program has developed and regularly updates an emergency plan to enable the program to maintain operations and to minimize disruption in the event of an emergency.

The program has a plan for providing client services in the event of a disaster or emergency affecting its client community.

Areas of Inquiry

Is there evidence of unusual disruption, such as frequent or repeated changes in procedures, key personnel, board, or other basic operations?

How are decisions made in the program? Are there clear procedures and policies? Is decision-making authority clear when delegated? Is decision-making timely and effective? Do staff members know to whom to go for decisions?

Is there evidence of effective periodic evaluation? Are evaluations linked to the program's goals, vision or strategic initiatives?

Is there any evidence of non-compliance with federal, state or funder requirements?

Are problems addressed promptly? Are there sufficient resources allocated to management and administration? Are they excessive?

Does management provide effective leadership and management training and support to mid-level supervisors and personnel engaged in administration and management?

Does the program foster an environment that emphasizes continuous learning, constructive evaluation and feedback, improvement, and excellence?

Has the program made considered choices regarding the proportionality of non-advocacy staff as compared to casehandlers, consistent with program resources, number of casehandlers, and type of work?

Does the program have a policy for the use of its technology? Does the program use technology effectively to enhance the efficiency of program operations and service delivery?

Areas of Inquiry

Does the program have a plan in the event of an emergency or disaster?

- For preserving files, equipment and computer data bases?
- For communication between staff and management?
- For the relocation of the program's work sites?

Does the program attempt to coordinate with state/local emergency preparedness entities?

Does the program have a plan for providing client services in the event of a disaster or emergency affecting the client population?

Criterion 4. **Financial administration.** The program has and follows financial policies, procedures, and practices that comport with applicable requirements of the American Institute of Certified Public Accountants, federal, state, and local government, and the program's funding sources, and conducts effective budget planning and oversight.

Indicators

The program has sufficient, capable, trained and effective staff dedicated to financial administration.

The program has detailed written policies and procedures describing its financial operations which comply with all applicable requirements. The program follows such policies and procedures.

Annual program audits do not reveal any significant problems or issues; where such items have been identified, the program addresses them effectively and promptly.

The program issues accurate financial statements on a timely basis.

Areas of Inquiry

Do past audits or outside reports and evaluations reflect problems? Have any such problems been addressed? Is there any evidence of failure to comply with applicable funder or governmental requirements?

Is the budget consistent with the program's mission, goals, and objectives? Does the program effectively adhere to its budget?

Are there systems and procedures in place to ensure periodic and effective financial oversight by management?

Does the program engage in financial planning beyond the current year?

Does the program use up-to-date technology to enhance efficient financial operations?

Criterion 5. **Human resources administration.** The program maintains effective human resources administration, including compliance with all applicable laws.

Indicators

The program has sufficient, capable, trained, and effective professional staff assigned to human resources administration.

The program has a capable, culturally competent, and diverse staff.

The program's hiring, supervision, promotion, compensation, and termination policies comply with applicable laws, are efficient, and serve the mission, goals, and priorities of the organization.

The program periodically assesses salaries and employee benefits.

The program maintains and follows clear, uniform and consistent personnel practices, based upon written policies.

The program conducts periodic effective evaluations of all staff, addressing areas where improvement is required and, where appropriate, using such evaluations as part of a comprehensive personnel development strategy.

The program maintains accurate and timely personnel files, and protects the confidentiality of personnel records as required by applicable law and contract.

In its personnel administration, services, and activities, the program avoids any discrimination, harassment or other improper conduct prohibited by law, and promotes equal employment opportunity.

The program effectively retains quality staff and avoids undesirable rates of turnover.

Staff relationships are professional, collegial, and positive.

Areas of Inquiry

What are the recruitment policies of the program?

What are the program's fringe benefits and retention policies, such as a loan repayment assistance program, retirement plans, health insurance, and other benefits?

Does the program regularly review its salary structure and benefits?

Does the program periodically review its human resources plans and policies?

What is the current composition of the staff?

Is the current composition of the program staff diverse in terms of experience, gender, race, and disability status?

Does the program conduct annual evaluations of its entire staff? Do such evaluations include setting goals for staff? Is there a system for tracking whether such goals are met?

Does the program evaluate internal and external factors related to turnover and recruitment procedures in recent hirings? Does the program experience a high level of turnover or employee grievances?

Does the program provide promotion opportunities?

Is there cultural competency training for all staff? Have they attended?

What is the recent history and current status of staff morale? Relations with management? Relations among attorneys and casehandling units? Relations between categories of staff, such as between attorneys and paralegals, attorneys and secretaries?

Indicators

The program does not have serious intra-staff problems which negatively affect program performance.

To the extent that there are or have been serious morale or other internal personnel problems, the program is addressing or has addressed them effectively, and is taking or has taken appropriate steps to prevent their recurrence.

Areas of Inquiry

Does management create and sustain an environment that values and supports a diverse workforce?

What has been the role of management in promoting improved relations to aid better service delivery?

- Among branch offices or units?
- With central administration?
- Between the board and staff?

Criterion 6. <u>Internal communication.</u> The program maintains effective intra-staff and staff-management communications and relations.

Indicators

The program has systems and procedures for ensuring regular communication among all staff. The program has procedures for obtaining input on significant decisions, and for resolving complaints and problems effectively and timely.

Decisions are quickly and effectively communicated to all those affected by them.

Maximum use of technology is made to facilitate and enhance internal communication.

Areas of Inquiry

Is there evidence of regular and consistent efforts to communicate effectively within the program?

Do staff feel there is effective communication? Do there appear to be any problems caused by the absence of effective communication?

Do staff feel that their input is sought on significant decisions?

How does the program use technology to facilitate and enhance communication?

Does the program resolve employee complaints and problems effectively and timely?

Criterion 7. **General resource development and maintenance**. To the extent possible, and consistent with the program's mission, the program seeks to maintain and expand its base of funding, with the goal of increasing the quality and quantity of the program's services to eligible clients. The program also coordinates with and where possible utilizes outside resources such as academic institutions, social service organizations, foundations, corporations, organized bar associations, members of the private bar, and other institutions and individuals to supplement its efforts. The program works to increase the overall resources devoted to the legal problems of the eligible client population.

Indicators

The program has sufficient, capable, trained and effective staff dedicated to resource development, or uses outside professional development assistance as appropriate.

The program makes reasonable efforts at and has success in expanding its funding base, has considered and attempted to secure funding from sources successfully accessed by Legal Services programs, stays abreast of and pursues new opportunities, is innovative in trying to develop new sources, and analyzes and evaluates whether the requirements of a prospective funding source are consistent with the program's mission, goals, priorities, objectives, and strategies.

The program has attempted to develop, and to the extent possible, has effective relationships with other major institutional resources in the service area that are involved or might be able to provide some support in the provision of legal assistance to eligible clients, as well as help in expanding program funding.

Areas of Inquiry

Has the program made reasonable efforts to expand its funding base? Has it been successful?

Is the executive director or fundraiser aware of the options that are available and is there a strategy to seek funds? Have creative approaches and opportunities been developed? Are the results reasonable?

Is the program coordinating development efforts with other community organizations and agencies serving the low-income population? To the extent it does not, is this a deliberate choice based upon careful analysis of the relative value, or lack thereof, of such joint action?

Does the program employ a development professional, or have access to other professional development assistance? How effectively does it staff its development efforts?

Criterion 8. <u>Coherent and comprehensive delivery structure.</u> Overall, the program management maintains a delivery structure and approach that effectively utilizes and integrates staff, private attorneys, and other components; emphasizes innovation and creativity in delivery; is informed by current information concerning delivery research; is well-suited to meeting the most pressing legal needs of the service area; and, given available resources, constitutes an effective and economical balancing of expenditures on the various functions and activities described in the four Performance Areas.

Indicators

The program has a reasonable, thoughtful and effective overall delivery system, which utilizes and integrates staff, private attorneys, volunteers, branch offices, outreach, and alternative delivery methods, and which strikes an effective balance on key issues such as specialization, experience of staff, use of attorneys and paralegals, and other major design choices.

The program's choices about allocation of resources to competing activities and functions are reasonable and balanced, and consistent with its mission, goals, priorities, objectives, and strategies.

Areas of Inquiry

Does the program have in place and regularly use systems to gauge the efficiency and effectiveness of its overall delivery system?

Is there evidence of actual assessment of efficiency and effectiveness?

Is there evidence of change as a result of that assessment?

Is there evidence of experimentation and innovation?

Criterion 9. **Participation in an integrated legal services delivery system.** **T**he program participates in, and seeks to expand and improve, statewide (and regional if relevant) legal assistance delivery systems to achieve equal access to justice and to meet the civil legal needs for low-income persons in the state.

Indicators

The program participates in statewide (and regional if relevant) efforts to provide low-income persons in the state with equal access to a full range of civil legal assistance services in all forums.

The program participates in local, statewide (and regional if relevant) efforts to maximize the effective use of available human and financial resources and to increase such resources to better address the civil legal needs of the state's low-income populations.

The program coordinates with other providers, the bar, law schools, and other relevant entities in seeking to ensure that support is provided to advocates and managers, including training, dissemination and exchange of information, and communication and coordination among practitioners in key areas of law and practice.

The program participates in statewide planning and oversight activities to achieve an integrated statewide delivery system, and coordinates and collaborates with other civil legal aid providers, private attorneys, government and corporate attorneys, the organized bar, courts and court personnel, law schools, and other public and private entities that provide legal and other social services to low-income persons.

Areas of Inquiry

Does the program participate in statewide (and regional if relevant) oversight activities to achieve an integrated statewide delivery system?

Is the program engaged in statewide efforts (and regional efforts if relevant) to achieve the availability of a full range of civil legal assistance in all available forums?

Is the program engaged in statewide efforts (and regional efforts if relevant) to eliminate barriers to access and provide meaningful services to low-income persons in the state?

Is the program engaged in statewide efforts (and regional efforts if relevant) to utilize existing financial and human resources effectively and efficiently?

Is the program engaged in statewide efforts (and regional efforts if relevant) to increase potential sources of funding, including financial resources, volunteer and in-kind resources?

Is the program engaged in statewide efforts (and regional efforts if relevant) to provide support to advocates and managers, including training, dissemination and exchange of information, and communication and coordination among practitioners in key areas of law and practice?

As part of its efforts to expand access, provide a full range of services, maximize resources, and ensure support within the state, does the program coordinate and collaborate with other civil legal aid providers, private attorneys, government and corporate attorneys, the organized bar, courts and court personnel, law schools, and other public and private entities that provide legal and social services to low-income persons?

Performance Criteria Panel

LSC Board Meeting—October 2013
Promotion and Provision for the Delivery of Legal Services Committee
LSC Performance Criteria Panel Presentation Bios

Katherine L. Garrett has been the Executive Director of the District of Columbia Bar Foundation (DCBF), the largest private funder of civil legal services in the District of Columbia since 2005. She has helped strengthen the Bar Foundation's basic grant program, has helped launched the District's first poverty lawyer loan repayment assistance program, has overseen the development of a training and technical assistance program for grantees, and has helped shape the grant program administering over $3 million in publicly appropriated funds.

Before coming to DCBF, Katia held a range of positions in the public and private sector, including as the Director of the DC Circuit's Task Force on Gender Race & Ethic Bias, and as the Chief of Staff in in the United States Department of Justice's Office of Policy Development during President Clinton's second term, and as law clerk to US District Court Judge Thomas F. Hogan.

Katia has served on local and national non-profit and voluntary bar association committees and boards, including the National Association of IOLTA Programs, the Washington Council of Lawyers, as the chair of the DC Circuit Judicial Conference Standing Committee on Pro Bono Legal Services. Katia has been recognized for her service to the community and accomplishments, most recently as the 2012 Woman Lawyer of the Year by the Womens Bar Association of DC.

Alex Gulotta has directed the Legal Aid Justice Center, a non-LSC funded legal services program headquartered in Charlottesville, Virginia, since 1994. The program provides direct client services in central Virginia, assists immigrants in northern Virginia, and has several projects with statewide impact. Gulotta will be joining Bay Area Legal Aid in Oakland, California as executive director in January 2014.

Gulotta received the Virginia State Bar's Legal Aid Lawyer of the Year Award in 1999, the National Legal Aid and Defender Association's Charles Dorsey Award in 2003, a resolution of commendation from the Virginia General Assembly in 2004, and was named a Fellow of the Virginia Law Foundation in 2005. He is currently on the Board of Directors of, and serves as Treasurer for, the National Legal Aid and Defender Association (NLADA).

Gulotta has extensive experience as a consultant assisting legal aid and other advocacy programs with strategic planning, quality improvement and peer review assessments. He has performed consulting work in eighteen states.

Yvonne Mariajimenez is the Deputy Director for Neighborhood Legal Services of Los Angeles County (NLSLA). She helps to oversee a budget of $13 million, a staff of 105, including 42 lawyers. In 2012, NLSLA served over 80,000 individuals.

She holds a B.S. from USC in Business Administration and a J.D. from Loyola Law School. She has dedicated her entire professional career as a lawyer to advocating for and on behalf of the poor. Yvonne began her legal services career in 1978 at San Fernando Valley Neighborhood Legal Services where she specialized in federal subsidized housing and equity fraud cases. She currently focuses on policy advocacy projects related to housing/foreclosures, health care, domestic violence, workforce development and immigration.

Yvonne is a former member of the Advisory Council of the Institute for Mexicans Abroad, advisory group to former President Vicente Fox, Republic of Mexico. She is past Vice President for the Los Angeles County Commission for Women and member of Comision Femenil. Yvonne was named Loyola Law School Public Interest Attorney of the Year and honored as a Pioneer Woman of the Year by the Los Angeles City Council. In 2013, she was honored by One Justice for her work to Californians in need and recognized as a Prominent Woman Leader by La Opinon, L.A.'s major Spanish language newspaper.

VII. Finance Committee

FINANCE COMMITTEE

October 22, 2013

Agenda

OPEN SESSION

1. Approval of agenda

2. Approval of the minutes of the meeting of July 9, 2013

3. Approval of the minutes of the meeting of July 21, 2013

4. Presentation on LSC's Financial Reports for the eleven-month period ending August 31, 2013

    - Presentation by David Richardson, Treasurer/Comptroller

5. Report on status of FY 2014 appropriations process

    - Presentation by Carol Bergman, Director of Government Relations & Public Affairs

6. Consider and act on ***Resolution # 2013-0XX,*** Temporary Operating Budget for FY 2014

    - Presentation by David Richardson, Treasurer/Comptroller

7. Public comment

8. Consider and act on other business

9. Consider and act on adjournment of meeting

Draft Minutes of July 9, 2013 Meeting

Legal Services Corporation
Telephonic Meeting of the Finance Committee
Open Session

Tuesday, July 9, 2013

Committee Chairman Robert J. Grey Jr. convened an open session telephonic meeting of the Legal Services Corporation's ("LSC") Finance Committee ("the Committee") at 11:08 a.m. on Tuesday, July 9, 2013. The meeting was held in the John N. Erlenborn Conference Room, Legal Services Corporation Headquarters, 3333 K Street, NW, Washington D.C. 20007.

The following Committee members were present:
Robert J. Grey Jr., Chairman
Sharon L. Browne
Laurie I. Mikva
Martha L. Minow
Allan J. Tanenbaum (Non-Director Member)
John G. Levi, *ex officio*

Other Board Members Present:
Victor B. Maddox

Also attending were:

James J. Sandman	President
Lynn Jennings	Vice President for Grants Management
Wendy Rhein	Chief Development Officer
Richard L. Sloane	Chief of Staff and Special Assistant to the President
Rebecca Fertig	Special Assistant to the President
Jeffrey E. Schanz	Inspector General
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the Inspector General (OIG)
David Maddox	Assistant Inspector General for Management and Evaluation, OIG
John C. Meyer	Director, Office of Information Technology (OIT)
Carol Bergman	Director, Office of Government Relations and Public Affairs (GRPA)
Rebecca Weir	Government Affairs Representative, GRPA
Bristow Hardin	Office of Program Performance (OPP)
Patrick Malloy	Legislative Fellow, GRPA
Kevin Grady	Intern, GRPA
Mariah Cesena	Intern, GRPA

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

MOTION

Mr. Levi moved to approve the agenda. Dean Minow and Ms. Browne seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Mr. Levi moved to approve the minutes of the Committee's meeting of June 11, 2013. Ms. Browne seconded the motion.

VOTE

The motion passed by voice vote.

President Sandman presented LSC Management's ("Management") recommendation for LSC's budget request for fiscal year 2015 in the amount of $486 million, which is the same amount approved by the Board for the fiscal year 2014 budget request. He provided a brief history of recent budget requests and detailed the factors used to reach Management's recommendation. President Sandman answered Committee members' questions.

Committee Chairman Grey invited public comment and received none.

There was no other business to discuss.

MOTION

Ms. Browne moved to adjourn the meeting. Dean Minow seconded the motion.

VOTE

The motion passed by voice vote.

The meeting of the Committee adjourned at 11:59 a.m.

Draft Minutes of July 21, 2013 Meeting

Legal Services Corporation
Meeting of the Finance Committee
Open Session

Sunday, July 21, 2013

Committee Chairman Robert J. Grey Jr. convened an open session meeting of the Legal Services Corporation's ("LSC") Finance Committee ("the Committee") at 1:30 p.m. on Sunday, July 21, 2013. The meeting was held at the Warwick Hotel, 1776 Grant Street, Denver, Colorado 80203.

The following Committee members were present:
Robert J. Grey Jr., Chairman
Sharon L. Browne
Laurie I. Mikva
Martha L. Minow (by telephone)
Father Pius Pietrzyk
Robert E. Henley Jr. (Non-Director Member)(by telephone)
Allan J. Tanenbaum (Non-Director Member)
John G. Levi, *ex officio*

Other Board Members Present:
Charles N.W. Keckler
Harry J.F. Korrell, III
Victor B. Maddox
Julie A. Reiskin
Gloria Valencia-Weber

Also attending were:

James J. Sandman	President
Lynn Jennings	Vice President for Grants Management
Wendy Rhein	Chief Development Officer
Richard L. Sloane	Chief of Staff and Special Assistant to the President
Rebecca Fertig	Special Assistant to the President
Ronald S. Flagg	Vice President for Legal Affairs, General Counsel, and Corporate Secretary
David L. Richardson	Comptroller and Treasurer, Office of Financial and Administrative Services (OFAS)
Bernie Brady	LSC Travel Coordinator
Carol Bergman	Director, Office of Government Relations and Public Affairs (GRPA)
Jeffrey E. Schanz	Inspector General
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the Inspector General (OIG)
Ronald "Dutch" Merryman	Assistant Inspector General for Audit, OIG

Thomas Coogan	Assistant Inspector General for Investigations, OIG
David Maddox	Assistant Inspector General for Management and Evaluation, OIG
Lora M. Rath	Deputy Director, Office of Compliance and Enforcement (OCE)
Janet LaBella	Director, Office of Program Performance (OPP)
Herbert S. Garten	Non-Director Member, Institutional Advancement Committee
Frank B. Strickland	Non Director Member, Institutional Advancement Committee
Anne Milne	Executive Director, Utah Legal Services
Chuck Greenfield	National Legal Aid and Defender Association (NLADA)
Don Saunders	NLADA
Lisa Wood	American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID)

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

Committee Chairman Grey called the meeting to order.

MOTION

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

VOTE

The motion passed by voice vote.

Mr. Richardson presented LSC's financial report for the eight-month period ending May 31, 2013. He reported that the Corporation's expenses for the period were under budget and provided a breakdown of the expenses. Mr. Richardson answered Committee members' questions.

Next, Mr. Richardson reported on the revised consolidated operating budget for fiscal year 2013. He answered Committee members' questions.

MOTION

Father Pius moved to recommend that the Board adopt the resolution approving the revised consolidated operating budget for fiscal year 2013. Ms. Browne seconded the motion.

VOTE

The motion passed by voice vote.

Mr. Richardson then reported on the selection of acts and depositories for LSC funds. He explained that after having discussions with the Friends of Legal Services Corporation, LSC Management ("Management") determined that LSC will proceed with TD Bank and that TD Bank will be able to meet all of LSC's banking needs.

Ms. Bergman then led the discussion regarding the status of the fiscal year 2014 appropriations process.

Next, Mr. Richardson presented the temporary operating authority for fiscal year 2014 and the accompanying resolution. He explained that, based on anticipated 2014 funding, there would be another temporary operating budget in October.

MOTION

Mr. Levi moved to recommend that the Board approve the temporary operating authority for fiscal year 2014. Father Pius and Dean Minow seconded the motion.

VOTE

The motion passed by voice vote.

President Sandman presented Management's recommendation for the fiscal year 2015 budget request. Committee members commended Management for its hard work preparing the budget request recommendation.

MOTION

Ms. Browne moved to recommend that the Board approve LSC's appropriation request for fiscal year 2015 in the amount of $486 million. Dean Minow seconded the motion.

VOTE

The motion passed by voice vote.

Chairman Grey invited public comment. Mr. Levi welcomed Ms. Browne back to her first Board meeting since last year. Mr. Saunders thanked the Board for its leadership and willingness to support Management's budget request recommendation.

There was no other business to discuss.

MOTION

Ms. Browne moved to adjourn the meeting. Dean Minow seconded the motion.

VOTE

The motion passed by voice vote.

The meeting of the Committee adjourned at 3:00 p.m.

Finance Report for 11-Month Review Period

FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

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

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

DATE: October 8, 2013

SUBJECT: August 2013 Financial Reports

The financial reports for the eleven-month period ending August 31, 2013, are attached for your review and discussion. There are four attachments (some with multiple pages) that comprise this report, and we are using the fiscal year (FY) 2013 Consolidated Operating Budget (COB) that was approved at the July Board meeting for our comparisons.

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

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

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

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

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

I. There are four elements included in the Delivery of Legal Assistance:

1. The Basic Field Programs budget is $316,978,614; the grant expenses for this fiscal year are $316,345,623. The grant

expenses include Basic Field Programs of $297,051,771, Native American of $8,858,551, and Migrant of $10,435,301. The remaining funds of $632,991 are earmarked for Louisiana for a close-out audit and for American Samoa, where we do not have a grantee.

The U.S. Court of Veterans Appeals Funds budget totals $2,528,571, and expenses are $2,363,010. There is a variance of $165,561 of which $132,609 will be used to increase this year's grant and the other funds will be set aside to reimburse LSC's administrative expenses.

2. The Grants from Other Funds budget totals $546,361, and expenses are $33,918. The remaining $512,443 is available for other emergency grants.

3. The Technology Initiative budget totals $4,339,908. Net grant expenses are $905,739 and are comprised of 10 grants totaling $1,010,812 and the recovery of unspent funds on 10 grants totaling $105,073. The remaining funds of $3,434,169 will be used to support the 2013 TIG competitive grant awards.

4. The Hurricane Sandy Disaster Relief Funds budget totals $950,000, and there are no expenses. We are in the process of finalizing the awards.

II. The Herbert S. Garten Loan Repayment Assistance Program's budget is $2,535,050, and expenses for the year are $1,099,156. The remaining $1,435,894 will fund the second payment of this year's loans and the renewal loans for the next two years.

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

III. MGO's annual budget totals $21,625,940. The budget is comprised of the MGO operating budget of $19,403,849, MGO Research Initiative budget of $287,191, and MGO Contingency Funds totaling $1,934,900.

The MGO operating budget allocation for this reporting period is $17,786,862, and compares to actual expenses of

$14,903,975. MGO is under budget by $2,882,887, or 16.21%, and the outstanding encumbrances total $82,133. The expenditures were $455,632 more than the same period in FY 2012.

The July financial report showed that MGO was under budget by $2,667,494, or 16.50%, and the outstanding encumbrances were $103,662. The expenditures were $323,933 more than the same period in FY 2012.

The MGO Research Initiative budget allocation (Public Welfare Foundation grant) is $263,258, and expenses are $87,078. The remaining balance is restricted for the use of the data project. The iScale and Keystone Accountability contract has a balance of $166,667, which is the amount of the encumbrance.

The MGO Contingency Funds budget allocation is $1,773,658, and there are no expenses against these funds.

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

The OIG operating budget allocation for this reporting period is $5,041,667, and compares to actual expenses of $4,224,882. The OIG is under budget by $816,785 or 16.20%, and the outstanding encumbrances total $172,279. The expenditures are $165,898 more than the same period in FY 2012.

The July financial report showed that the OIG was under budget by $722,216 or 15.76%, and the outstanding encumbrances were $160,279. The expenditures were $128,892 more than the same period in FY 2012.

The OIG Contingency Funds budget allocation is $298,495, and there are no expenses against these funds.

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

budgets and expenditures by budget category for the MGO operating budget, and all the categories are under budget.

The largest variance under budget is in the Compensation and Benefits category in the amount of $1,403,489. The variance for each office is shown in the following table.

	11 / 12 ths of the FY 2013 Budget	Actual	Variance
Executive Office	$934,359	801,586	$132,773
Legal Affairs	828,437	787,981	40,456
Government Relations/Public Affairs	913,825	845,985	67,840
Human Resources	635,847	540,375	95,472
Financial & Administrative Srvcs	954,341	870,183	84,158
Information Technology	1,020,296	958,783	61,513
Program Performance	3,214,818	2,907,383	307,435
Information Management	515,946	503,261	12,685
Compliance & Enforcement	3,403,400	2,802,243	601,157
Total of Compensation & Benefits	$12,421,269	$11,017,780	$1,403,489

These amounts are attributable to delayed hires, attrition, and unfilled positions, and represents 48.68% of this month's variance. The budgeted open positions by cost center are as follows:

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

Human Resources – Administrative Assistant (this position was filled with a new employee that began work on September 16);

Government Relations/Public Affairs – Web Content Manager (this position was filled with a new employee that began work on September 23);

Program Performance – Two Program Counsels (one position has been filled with a new employee that began on September 16), and a Program Analyst position was retitled to a Research Operations

Analyst (this position has been posted and interviews occurred the week of September 30); and

Compliance and Enforcement –Three Fiscal Compliance Specialists are open (we are interviewing for one of these positions) and one Program Counsel (this position has not been posted).

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

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

Attachment D, page 1, compares the OIG budget and expenditures by budget category and all are under budget. The largest variance under budget is for Compensation and Benefits, totaling $375,453. This variance is attributable to attrition and to unfilled positions, and is 45.97% of this period's variance. The OIG filled one of their open positions by hiring a Senior Auditor that began work on September 23.

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)

ATTACHMENT A

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

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	F I S C A L Y E A R 2 0 1 3						C O M P A R A T I V E	
	ANNUAL BUDGET	ACTUAL	ANNUAL BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUM-BRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
I. DELIVERY OF LEGAL ASSISTANCE								
1. Basic Field Programs	$316,978,614	$316,345,623	$316,978,614	$632,991	0.20	$0	$323,232,739	($6,887,116)
2. US Court of Vets Appeals Funds	2,528,571	2,363,010	2,528,571	165,561	6.55	-	2,700,000	(336,990)
3. Grants From Other Funds	546,361	33,918	546,361	512,443	93.79	-	253,346	(219,428)
4. Technology Initiatives	4,339,908	905,739	4,339,908	3,434,169	79.13	-	3,553,984	(2,648,245)
5. Hurricane Sandy Disaster Relief Funds	950,000	-	950,000	950,000	100.00	-	-	-
TOTAL DELIVERY OF LEGAL ASSISTANCE	325,343,454	319,648,290	325,343,454	5,695,164	1.75	-	329,740,069	(10,091,779)
II. HERBERT S. GARTEN LOAN REPAYMENT ASSISTANCE PROGRAM	2,535,050	1,099,156	2,535,050 *	1,435,894	56.64	-	552,654	546,502

	ANNUAL BUDGET	ACTUAL	ELEVEN - TWELFTHS OF THE FY 2013 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUM-BRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
III. MANAGEMENT & GRANTS OVERSIGHT								
1. M & G O Operating Budget	19,403,849	14,903,975	17,786,862	2,882,887	16.21	82,133	14,448,343	455,632
2. M & G O Research Initiative	287,191	87,078	263,258	176,180	66.92	166,667	-	87,078
3. M & G O Contingency Funds	1,934,900	-	1,773,658	1,773,658	100.00	-	-	-
TOTAL MANAGEMENT & GRANTS OVERSIGHT	21,625,940	14,991,053	19,823,778	4,832,725	24.38	248,800	14,448,343	542,710
IV. INSPECTOR GENERAL								
1. I G Operating Budget	5,500,000	4,224,882	5,041,667	816,785	16.20	172,279	4,058,984	165,898
2. I G Contingency Funds	325,631	-	298,495	298,495	100.00	-	-	-
TOTAL INSPECTOR GENERAL	5,825,631	4,224,882	5,340,162	1,115,280	20.88	172,279	4,058,984	165,898
TOTAL	$355,330,075	$339,963,381	$353,042,444	$13,079,063		$421,079	$348,800,050	($8,836,669)

* $9,974 LRAP ACCOUNTS RECEIVABLE

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

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	F I S C A L Y E A R 2 0 1 3						C O M P A R A T I V E	
	ANNUAL BUDGET	ACTUAL	ELEVEN - TWELFTHS OF THE FY 2013 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUM-BRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
III. MANAGEMENT & GRANTS OVERSIGHT								
1. Board of Directors	$427,900	$254,037	$392,242	$138,205	35.23	$0	$298,721	($44,684)
2. Executive Office	1,160,700	866,212	1,063,975	197,763	18.59	-	521,501	344,711
3. Legal Affairs	1,286,700	948,017	1,179,475	231,458	19.62	9,308	1,055,849	(107,832)
4. Government Relations/Public Affairs	1,146,400	929,903	1,050,867	120,964	11.51	9,115	749,882	180,021
5. Human Resources	883,650	627,009	810,013	183,004	22.59	35,337	651,908	(24,899)
6. Financial & Admin Services	3,308,599	2,807,508	3,032,882	225,374	7.43	16,092	2,756,808	50,700
7. Information Technology	1,732,850	1,265,385	1,588,446	323,061	20.34	11,435	1,313,858	(48,473)
8. Program Performance	4,346,600	3,582,829	3,984,383	401,554	10.08	846	3,393,498	189,331
9. Information Management	598,850	526,345	548,946	22,601	4.12	-	543,376	(17,031)
10. Compliance & Enforcement	4,511,600	3,096,730	4,135,633	1,038,903	25.12	-	3,162,942	(66,212)
MANAGEMENT & GRANTS OVERSIGHT SUBTOTAL	$19,403,849	$14,903,975	$17,786,862	$2,882,887	16.21	$82,133	$14,448,343	$455,632
11. M & G O Research Initiative	287,191	87,078	263,258	176,180	66.92	166,667	-	87,078
12. M & G O Contingency Funds	1,934,900	-	1,773,658	1,773,658	100.00	-	-	-
TOTAL MANAGEMENT & GRANTS OVERSIGHT	$21,625,940	$14,991,053	$19,823,778	$4,832,725	24.38	$248,800	$14,448,343	$542,710

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

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		F I S C A L Y E A R 2 0 1 3					C O M P A R A T I V E	
	ANNUAL BUDGET	ACTUAL	ELEVEN - TWELFTHS OF THE FY 2013 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUM-BRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
TOTAL COMP./BENEFITS	13,550,475	10,999,249	12,421,269	1,403,489	11.30	-	10,555,991	461,789
TEMP. EMPLOYEE PAY	812,100	541,893	744,425	202,532	27.21	-	381,658	160,235
CONSULTING	780,705	313,997	715,646	401,649	56.12	47,936	481,016	(167,019)
TRAVEL/TRANSPORTATION EXPS	1,232,595	603,283	1,129,878	526,595	46.61	-	627,368	(24,085)
COMMUNICATIONS	123,400	76,175	113,117	36,942	32.66	-	87,037	(10,862)
OCCUPANCY COST	1,722,100	1,567,500	1,578,592	11,092	0.70	-	1,568,770	(1,270)
PRINTING & REPRODUCTION	92,600	54,385	84,884	30,499	35.93	13,964	56,343	(1,958)
OTHER OPERATING EXPENSES	880,624	685,637	807,239	121,602	15.06	20,233	626,800	58,837
CAPITAL EXPENDITURES	209,250	43,325	191,812	148,487	77.41	-	63,360	(20,035)
TOTAL	$19,403,849	14,903,975	17,786,862	2,882,887	16.21	$82,133	14,448,343	455,632

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

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		F I S C A L Y E A R 2 0 1 3					C O M P A R A T I V E	
BUDGET CATEGORY	ANNUAL BUDGET	ACTUAL	ELEVEN - TWELFTHS OF THE FY 2013 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUM-BRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
TOTAL COMP./BENEFITS	$650,000	-	595,833	595,833		-	-	-
TEMP. EMPLOYEE PAY	-	-	-	-		-	-	-
CONSULTING	-	-	-	-		-	-	-
TRAVEL/TRANSPORTATION EXPS	-	-	-	-		-	-	-
COMMUNICATIONS	-	-	-	-		-	-	-
OCCUPANCY COST	-	-	-	-		-	-	-
PRINTING & REPRODUCTION	-	-	-	-		-	-	-
OTHER OPERATING EXPENSES	1,284,900	-	1,177,825	1,177,825		-	-	-
CAPITAL EXPENDITURES	-	-	-	-		-	-	-
TOTAL	$1,934,900	-	1,773,658	1,773,658		$0	-	-

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

BUDGET CATEGORY	BOARD OF DIRECTORS	EXECUTIVE OFFICE	LEGAL AFFAIRS	GOV'T REL PUBLIC AFFS	HUMAN RESOURCES	OFFICE FINANCIAL & ADMIN SRVCS
COMPENSATION & BENEFITS	-	801,586	787,981	845,985	540,375	870,183
TEMPORARY EMPLOYEE PAY	-	21,603	53,154	25,421	21,012	-
CONSULTING	65,332	8,336	69,348	600	42,864	1,377
TRAVEL/TRANSPORTATION EXPS	135,440	31,019	5,725	22,977	2,665	5,259
COMMUNICATIONS	2,039	3,574	2,314	3,568	962	13,095
OCCUPANCY COST	-	-	-	-	-	1,567,500
PRINTING & REPRODUCTION	-	-	485	5,525	-	48,375
OTHER OPERATING EXPENSES	51,226	94	29,010	25,827	19,131	294,095
CAPITAL EXPENDITURES	-	-	-	-	-	7,624
TOTAL	$254,037	$866,212	$948,017	$929,903	$627,009	$2,807,508

BUDGET CATEGORY	INFORMATION TECHNOLOGY	PROGRAM PERFORMANCE	INFORMATION MANAGEMENT	COMPLIANCE & ENFORCEMENT		TOTAL MGT & GRANTS OVERSIGHT
COMPENSATION & BENEFITS	958,783	2,907,383	503,261	2,802,243		11,017,780
TEMPORARY EMPLOYEE PAY	-	300,295	-	120,408		541,893
CONSULTING	4,285	104,530	-	17,325		313,997
TRAVEL/TRANSPORTATION EXPS	16,022	237,182	-	146,994		603,283
COMMUNICATIONS	28,709	12,345	8	9,561		76,175
OCCUPANCY COST	-	-	-	-		1,567,500
PRINTING & REPRODUCTION	-	-	-	-		54,385
OTHER OPERATING EXPENSES	221,885	21,094	23,076	199		685,637
CAPITAL EXPENDITURES	35,701	-	-	-		43,325
TOTAL	$1,265,385	$3,582,829	$526,345	$3,096,730		14,903,975

OTHER OPERATING EXPENSES FOR THE ELEVEN-MONTH PERIOD ENDING AUGUST 31, 2013

ANNUAL BUDGET	ACTUAL	ELEVEN-TWELFTHS OF THE FY 2013 BUDGET	UNDER / (OVER) BUD VS ACT VARIANCE
$880,624.00	685,637.00	807,239.00	121,602.00

ACCOUNT CODES	DESCRIPTION	COST CENTERS		YTD EXPENSE
		BOARD OF DIRECTORS	20,370.76	
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	2,532.60	
		FINANCIAL & ADMIN SERVICES	9,288.79	
		INFORMATION TECHNOLOGY	106,915.25	
5600	**EQUIPMENT RENTAL**	TOTAL		139,107.40
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	3,107.93	
		HUMAN RESOURCES	425.59	
		FINANCIAL & ADMIN SERVICES	44,078.16	
		INFORMATION TECHNOLOGY	25,706.43	
		INFORMATION MANAGEMENT	39.32	
5610	**OFFICE SUPPLIES**	TOTAL		73,357.43
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	525.10	
		HUMAN RESOURCES	588.75	
		FINANCIAL & ADMIN SERVICES	6,586.07	
		INFORMATION TECHNOLOGY	24,112.14	
5611	**OFFICE EQUIPMENT**	TOTAL		31,812.06
		FINANCIAL & ADMIN SERVICES	163,973.33	
5620	**COMMERICAL INSURANCE**	TOTAL		163,973.33
		LEGAL AFFAIRS	20,685.00	
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	18,850.47	
		HUMAN RESOURCES	1,595.80	
		FINANCIAL & ADMIN SERVICES	23,361.14	
		INFORMATION MANAGEMENT	395.00	
		INFORMATION TECHNOLOGY	64,905.22	
5640	**DATA PROCESSING**	TOTAL		129,792.63

OTHER OPERATING EXPENSES FOR THE ELEVEN-MONTH PERIOD ENDING AUGUST 31, 2013

ANNUAL BUDGET	ACTUAL	ELEVEN-TWELFTHS OF THE FY 2013 BUDGET	UNDER / (OVER) BUD VS ACT VARIANCE
$880,624.00	685,637.00	807,239.00	121,602.00

ACCOUNT CODES	DESCRIPTION	COST CENTERS		YTD EXPENSE
		BOARD OF DIRECTORS	30,708.00	
		LEGAL AFFAIRS	0.00	
		HUMAN RESOURCES	11,822.80	
		OFFICE OF PROGRAM PERFORMANCE	19,893.74	
5650	**ADVERTISING & CLIPPING SERVICES**	TOTAL		62,424.54
		LEGAL AFFAIRS	1,325.00	
5660	**DUES & MEMBERSHIPS**	TOTAL		1,325.00
		LEGAL AFFAIRS	7,000.00	
		HUMAN RESOURCES	39.95	
		FINANCIAL & ADMIN SERVICES	724.00	
		OFFICE OF PROGRAM PERFORMANCE	1,200.00	
		INFORMATION MANAGEMENT	12,874.70	
		OFFICE OF COMPLIANCE AND ENFORCEMENT	199.18	
5670	**SUBSCRIPTIONS**	TOTAL		22,037.83
		EXECUTIVE OFFICE	19.48	
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	78.25	
		HUMAN RESOURCES	1,881.58	
		FINANCIAL & ADMIN SERVICES	28,158.19	
5680	**EMPLOYEE LECTURES/OTHER ACT.**	TOTAL		30,137.50
		BOARD OF DIRECTORS	147.50	
		EXECUTIVE OFFICE	75.00	
		GOVERNMENT RELATIONS/PUBLIC AFFAIRS	733.00	
		HUMAN RESOURCES	2,776.70	
		FINANCIAL & ADMIN SERVICES	17,925.68	
		INFORMATION TECHNOLOGY	246.00	
		INFORMATION MANAGEMENT	9,766.69	
5690	**OFFICE EXPENSES**	TOTAL		31,670.57
		TOTAL OTHER OPERATING EXPENSES		**$685,638.29**

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

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		F I S C A L Y E A R 2 0 1 3					C O M P A R A T I V E	
	ANNUAL BUDGET	ACTUAL	ELEVEN - TWELFTHS OF THE FY 2013 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUM-BRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
TOTAL COMP./BENEFITS	$4,363,500	3,624,421	3,999,874	375,453	9.39	-	3,448,448	175,973
TEMP. EMPLOYEE PAY	25,000	9,775	22,917	13,142	57.35	-	22,647	(12,872)
CONSULTING	550,000	263,175	504,167	240,992	47.80	153,363	210,615	52,560
TRAVEL/TRANSPORTATION EXPS	321,600	198,524	294,800	96,276	32.66	18,916	181,015	17,509
COMMUNICATIONS	28,000	19,570	25,667	6,097	23.75	-	16,276	3,294
OCCUPANCY COST	4,000	-	3,667	3,667	100.00	-	-	-
PRINTING & REPRODUCTION	12,000	8,391	11,000	2,609	23.72	-	7,820	571
OTHER OPERATING EXPENSES	100,900	58,359	92,492	34,133	36.90	-	44,134	14,225
CAPITAL EXPENDITURES	95,000	42,666	87,083	44,417	51.01	-	128,029	(85,363)
TOTAL	$5,500,000	4,224,881	5,041,667	816,786	16.20	172,279	4,058,984	165,897

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

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		F I S C A L Y E A R 2 0 1 3					C O M P A R A T I V E	
BUDGET CATEGORY	ANNUAL BUDGET	ACTUAL	ELEVEN - TWELTHS OF THE FY 2013 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUM-BRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
TOTAL COMP./BENEFITS	-	-	-	-		-	-	-
TEMP. EMPLOYEE PAY	-	-	-	-		-	-	-
CONSULTING	-	-	-	-		-	-	-
TRAVEL/TRANSPORTATION EXPS	-	-	-	-		-	-	-
COMMUNICATIONS	-	-	-	-		-	-	-
OCCUPANCY COST	-	-	-	-		-	-	-
PRINTING & REPRODUCTION	-	-	-	-		-	-	-
OTHER OPERATING EXPENSES	$325,631	-	298,495	298,495		-	-	-
CAPITAL EXPENDITURES	-	-	-	-		-	-	-
TOTAL	$325,631	-	298,495	298,495		$0	-	$0

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Temporary Operating Budget FY 2014

FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

TO: Robert J. Grey, Finance Committee Chairman

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

DATE: October 3, 2013

SUBJECT: Fiscal Year (FY) 2014 Proposed Temporary Operating Budget (TOB)

Each October, Management provides a proposed TOB to the Board of Directors for consideration. The TOB that Management is proposing includes amounts projected to be received through a Continuing Resolution based on the FY 2013 appropriation. This amount is $339,926,164 and would be distributed as follows:

Basic Field Programs	$316,144,749
Technology Initiatives	3,158,470
Herbert H. Garten Loan Repayment Assistance Program	928,962
Management and Grants Oversight	15,792,344
Inspector General	3,901,639

The appropriation for the U.S. Court of Veterans Appeals is expected to be $2,519,572. When the projected FY 2013 carryover of $11,858,989 is included, the TOB totals $354,304,725.

Attachment A presents a breakdown of the TOB by budget line in four columns.

Column 1 presents the projected funds from the FY 2014 Continuing Resolution;
Column 2 provides an estimate of the FY 2013 Carryover;
Column 3 shows the projected FY 2014 Court of Veterans Appeals Grant; and
Column 4 combines columns 1 through 3.

The following is a description of how the projected TOB, as reflected in Attachments A and B, is allocated.

The Basic Field Grant funds are distributed based on the funding formula as provided in the appropriation. A competitive process for approximately one-third of the service areas is undertaken each year with the successful applicants, in most instances, receiving multi-year grants based on continued appropriations. The FY 2013 carryover funds set aside for America Samoa will be included in the funding allocation for grants this year, we will continue to hold funds for the close-out audit of a Louisiana program.

The US Court of Veterans Appeals Grant is also awarded based on a competitive process and a multi-year grant is provided based on continued funding. Some of the carryover funds will be used to support the grant administrative costs.

Grants from Other Funds are carryover funds that LSC receives from grant recoveries and are used to provide emergency and special one-time grants.

The Technology Initiatives budget line is for grants to be awarded for special projects involving the improvement of access to justice through technology following a competitive process. A competitive process begins in the summer with grants being awarded in October.

The Management and Grants Oversight (MGO) budget is created by the Office Directors under the direction of the President. Attachment B presents a summary of the resulting budgets. Key areas of the proposed budget for MGO include the following items:

- Board of Directors –
  - 4 three-day board meetings to be held in Pittsburgh, PA; Austin, TX; Washington, DC; and Des Moines, IA.
  - Funds are budgeted for 36 guests to attend board meetings and 15 additional trips for board members to take while attending to LSC business.
- LSC Staff Overview – 109 full time staff employees in MGO, detailed in the offices as follows:

	Current Staffing	2014 Projected Staffing
Executive Office	6	7
Legal Affairs	7	7

Government Relations/Public Affairs	7	7
Human Resources	6	6
Financial and Administrative Services	10	11
Information Technology	8	8
Program Performance	24	27
Information Management	5	5
Compliance and Enforcement	24	31
Totals	97	109

We currently have 97 full time staff members and 12 open positions. The open positions include:

Executive Office – a Development Assistant to be hired after December 31;

Financial and Administrative Services – a staff accountant to be hired after December 31;

Program Performance – 2 Program Counsel to be hired after April 1 and a Research Operations Analyst to be hired after October 30; and

Compliance and Enforcement – a Fiscal Oversight Analyst to be hired after October 30; a Fiscal Oversight Analyst to be hired after December 31; and 1 Program Counsel, 2 Fiscal Oversight Analysts and 2 Training & Technology Analysts to be hired after March 31.

- Executive Office – $63,950 for travel needs, which includes 12 speaking engagements and fund-raising activities;
- Legal Affairs – $190,000 in the consulting budget line for outside counsel.
- Government Relations/Public Affairs – $38,000 budgeted for consulting covers costs of a freelance copy editor;
- Human Resources – Consulting costs of $63,300 for a compensation survey, audit of LSC retirement plan, and other consulting needs;
- Financial and Administrative Services – The budget includes funds for Occupancy costs in the amount of $1,710,000 for lease payments and

$90,000 for additional pass-through operating costs; other operating expenses totaling $383,650 are for office equipment rental and maintenance, office supplies and equipment, outside payroll services, bank service charges, commercial insurance coverage, and Directors' and Officers' Liability Insurance; and capital expenditures of $85,000 covers equipment and furniture replacements;

- Information Technology – Consulting of $238,800 to assist the Corporation in reviewing business processes, reviewing our data portal needs, upgrading our voice and data communications, and security of our networks; Other Operating Expenses of $266,675 are to fund the maintenance of our computer systems and yearly software renewal fees; capital expenditures of $243,500 are for new computers, servers, software, and to upgrade our telephone system.
- The Office of Program Performance will continue to invest resources in program quality visits, capability assessment visits, training and other projects for program support. These initiatives are supported by temporary employees with an estimated cost of $394,550. The travel budget of $340,850 supports staff, temporary employees, and consultant travel. There are 51 program visits planned that will utilize a total of 720 person-days.
- Compliance and Enforcement has budgeted for on-site reviews supported by proposed temporary employees with costs of $193,000 and travel totaling $282,800. There are 25 program visits planned that will utilize a total of 690 person-days.
- Contingency Funds in the amount of $722,000 have been set aside for future Corporation needs.
- The balance of $200,113 in the M & G O Research Initiative budget line is from the Public Welfare Foundation Grant for improving data collection systems and strengthens the assessments efforts of LSC, and to help their grantees manage their operations and increase financial support for their work.

The following budget information is provided by the Office of Inspector General.

The statutorily independent OIG's FY 2014 TOB funds the executive, audit, investigative, management and evaluation, and legal review functions required by the Inspector General Act. The budget is based on a $3,901,639 base and a projected $1,200,000 in carryover. Key areas budget areas include:

1. Quantity controls reviews of selected independent public accountants work in performing the annual audits of the LSC grantees at a cost of $228,000 (in consulting and travel lines).
2. Information management support and systems upgrade to better support OIG's internal operations and to update the OIG website budgeted at $210,000 (in consulting, other operating, and capital budget lines).
3. As mandated by the IG Act, the OIG has budgeted $13,800 to fund the Council of Inspectors General on Integrity and Efficiency, and $60,000 for staff training.

This TOB allows the OIG's work plan to remain flexible and can accommodate additional independent and objective reviews as requested by the Board or Congress.

Attached is a draft TOB resolution for your consideration. Attachment A presents a summary by line item and Attachment B summarizes each office's budget by budget category. Questions or concerns related to the MGO budget should be directed to me at 202-295-1510 or Wendy Christmas at 202-295-1516. 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

ATTACHMENT A

LEGAL SERVICES CORPORATION
PROPOSED TEMPORARY OPERATING BUDGET
FOR THE FISCAL YEAR 2014

	(1) FY 2014 CONTINUING RESOLUTION FUNDING	(2) FY 2013 PROJECTED CARRYOVER	(3) COURT OF VETS APPEALS & ADJUSTMENTS	(4) FY 2014 TEMPORARY OPERATING BUDGET
I. DELIVERY OF LEGAL ASSISTANCE				
1. Basic Field Programs	316,144,749	632,991	-	316,777,740
2. U.S. Court of Veterans Appeals Funds	-	5,000	2,519,572	2,524,572
3. Grants From Other Funds	-	279,207	-	279,207
4. Technology Initiatives	3,158,470	3,422,169	-	6,580,639
5. Hurricane Sandy Disaster Relief Funds	-	75,959	-	75,959
DELIVERY OF LEGAL ASSISTANCE TOTALS	319,303,219	4,415,326	2,519,572	326,238,117
II. HERBERT S. GARTEN LOAN REPAYMENT ASSISTANCE PROGRAM	928,962	1,435,894	-	2,364,856
III. MANAGEMENT & GRANTS OVERSIGHT				
1. M & G O Operating Budget	15,792,344	3,885,656	-	19,678,000
2. M & G O Research Initiative	-	200,113	-	200,113
3. M & G O Contingency Funds	-	722,000	-	722,000
TOTAL OF MANAGEMENT & GRANTS OVERSIGHT	15,792,344	4,807,769	-	20,600,113
IV. INSPECTOR GENERAL	3,901,639	1,200,000	-	5,101,639
TOTAL BUDGET	$339,926,164	$11,858,989	$2,519,572	$354,304,725

ATTACHMENT B

LEGAL SERVICES CORPORATION
PROPOSED TEMPORARY OPERATING BUDGET
FOR MANAGEMENT AND GRANTS OVERSIGHT
AND INSPECTOR GENERAL
FOR FISCAL YEAR 2014

BUDGET CATEGORY	BOARD OF DIRECTORS	EXECUTIVE OFFICES	LEGAL AFFAIRS	GOVERNMENT RELATIONS & PUB AFFS	HUMAN RESOURCES	OFFICE FINANCIAL & ADMIN SRVCS	INFORMATION TECHNOLOGY
COMPENSATION & BENEFITS	0	1,118,425	963,850	951,600	661,900	1,206,500	1,012,450
TEMP. EMPLOYEE PAY	0	10,500	60,000	16,850	0	10,400	0
CONSULTING	108,900	0	190,000	38,000	63,300	2,500	238,800
TRAVEL & TRANSPORTATION	223,000	63,950	17,900	29,300	47,100	18,300	50,000
COMMUNICATIONS	5,400	6,600	5,200	2,850	2,450	14,500	40,400
OCCUPANCY COSTS	0	0	0	0	0	1,800,000	0
PRINTING & REPRODUCTION	0	600	0	6,500	0	71,450	0
OTHER OPERATING EXPENSES	56,600	4,650	34,500	33,000	39,450	383,650	266,675
CAPITAL EXPENDITURES	0	0	0	0	0	85,000	243,500
TOTAL	393,900	1,204,725	1,271,450	1,078,100	814,200	3,592,300	1,851,825

BUDGET CATEGORY	PROGRAM PERFORM	INFORMATION MANGEMENT	COMPLIANCE & ENFORCE	TRAINING & TECH ASSIST	CONTINGENCY FUND	MGT & GRNTS OVERSIGHT	INSPECTOR GENERAL
COMPENSATION & BENEFITS	3,464,300	563,400	3,899,700	144,750	722,000	14,708,875	4,225,400
TEMP. EMPLOYEE PAY	394,550	0	193,000	0	0	685,300	50,000
CONSULTING	12,000	0	50,000	0	0	703,500	405,000
TRAVEL & TRANSPORTATION	340,850	5,000	282,800	26,750	0	1,104,950	255,000
COMMUNICATIONS	22,600	100	20,200	400	0	120,700	27,000
OCCUPANCY COSTS	500	0	0	0	0	1,800,500	2,000
PRINTING & REPRODUCTION	0	0	0	0	0	78,550	11,000
OTHER OPERATING EXPENSES	14,250	27,600	500	8,250	0	869,125	54,239
CAPITAL EXPENDITURES	0	0	0	0	0	328,500	72,000
TOTAL	4,249,050	596,100	4,446,200	180,150	722,000	20,400,000	5,101,639

BOARD OF DIRECTORS

RESOLUTION

TEMPORARY OPERATING BUDGET AND SPECIAL CIRCUMSTANCE OPERATING AUTHORITY FOR FISCAL YEAR 2014

WHEREAS, the Board of Directors ("Board") of the Legal Services Corporation ("LSC") has reviewed information regarding the status of the Fiscal Year (FY) 2014 appropriation and anticipated funding through a continuing resolution (CR) for LSC and the U.S Court of Veterans Appeals grant. The projected funds available for the Temporary Operating Budget (TOB) including the projected FY 2013 carryover are as follows:

1) Proposed Continuing Resolution funding of $339,926,164;

2) U.S. Court of Veterans Appeals funding of $2,519,572;

3) Carryover in the amount of $11,858,989, which is comprised of:

    a. Basic Field Programs carryover of $632,991;
    b. U.S. Court of Veterans Appeals of $5,000;
    c. Grants from Other Funds of $279,207;
    d. Technology Initiative Grant funds of $3,422,169;
    e. Hurricane Sandy Disaster Relief Funds of $75,959
    f. Herbert S. Garten Loan Repayment Assistance Program of $1,435,894;
    g. Management and Grants Oversight Operations of $3,885,656;
    h. Public Welfare Foundation Research Grant of $200,113;
    i. Management and Grants Oversight Contingency of $722,000; and
    j. Office of Inspector General of $1,200,000; and

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 2014 totaling $354,304,725 of which $326,238,117 is for the *Delivery of Legal Assistance*; $2,364,856 is for the *Herbert S. Garten Loan Repayment Assistance Program;* $20,600,113 is for *Management Grants Oversight*; and $5,101,639 is for the *Office of Inspector General,* as reflected in the attached documents; and

Adopted by the Board of Directors
On October 22, 2013

_____

John G. Levi
Chairman

Attest:

_____

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

VIII. Board of Directors

BOARD OF DIRECTORS

October 22, 2013

Agenda

OPEN SESSION

1. Pledge of Allegiance
2. Approval of agenda
3. Approval of minutes of the Board's meeting of July 23, 2013
4. Chairman's Report
5. Members' Reports
6. President's Report
7. Inspector General's Report
8. Report on implementation of recommendations of the Pro Bono Task Force
9. Consider and act on the report of the Promotion and Provision for the Delivery of Legal Services Committee
10. Consider and act on the report of the Finance Committee
11. Consider and act on the report of the Audit Committee
12. Consider and act on the report of the Operations and Regulations Committee
13. Consider and act on the report of the Governance and Performance Review Committee
14. Consider and act on the report of the Institutional Advancement Committee

15. Public comment

16. Consider and act on other business

17. Consider and act on whether to authorize an executive session of the Board to address items listed below, under Closed Session

CLOSED SESION

18. Approval of minutes of the Board's closed session meeting of July 23, 2013

19. Briefing by Management

20. Briefing by the Inspector General

21. Consider and act on General Counsel's report on potential and pending litigation involving LSC

22. Consider and act on list of prospective funders

23. Consider and act on motion to adjourn meeting

Draft Minutes of

July 23, 2013 Meeting

Legal Services Corporation
Meeting of the Board of Directors
Open Session

Tuesday, July 23, 2013

Chairman John G. Levi convened an open session meeting of the Legal Services Corporation's ("LSC") Board of Directors at 9:44 a.m. on Tuesday, July 23, 2013. The meeting was held at the Warwick Hotel, 1776 Grant Street, Denver, Colorado 80203.

The following Board members were present:
John G. Levi, Chairman
Martha L. Minow, Vice Chair (by telephone)
Sharon L. Browne
Robert J. Grey, Jr.
Charles N.W. Keckler
Harry J.F. Korrell, III
Victor B. Maddox
Laurie I. Mikva
Father Pius Pietrzyk
Julie A. Reiskin
Gloria Valencia-Weber
James J. Sandman, *ex officio*

Also attending were:

Lynn Jennings	Vice President for Grants Management
Wendy Rhein	Chief Development Officer
Richard L. Sloane	Special Assistant to the President
Rebecca Fertig	Special Assistant to the President
Ronald S. Flagg	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, Office of Financial and Administrative Services
Carol A. Bergman	Director, Office of Government Relations and Public Affairs
Carl Rauscher	Director of Media Relations, Office of Government Relations and Public Affairs
Jeffrey E. Schanz	Inspector General
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the Inspector General (OIG)
Ronald "Dutch" Merryman	Assistant Inspector General for Audit, OIG
Thomas Coogan	Assistant Inspector General for Investigations, OIG
David Maddox	Assistant Inspector General for Management and Evaluation, OIG
Lora M. Rath	Director, Office of Compliance and Enforcement
Janet LaBella	Director, Office of Program Performance
Chuck Greenfield	National Legal Aid and Defender Association (NLADA)

Don Saunders	NLADA
Lisa Wood	Chair, American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID)
Bev Groudine	ABA Commission on IOLTA, SCLAID

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

Chairman Levi noted the presence of a quorum and called the meeting to order. Ms. Reiskin led the Pledge of Allegiance.

MOTION

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

VOTE

The motion passed by a voice vote.

MOTION

Ms. Reiskin moved to approve the minutes of the Board's meetings of April 16 and May 21, 2013. Ms. Browne seconded the motion.

VOTE

The motion passed by a voice vote.

Chairman Levi gave the Chairman's Report. He thanked Colorado Legal Services for hosting the Board, Professor Valencia-Weber for her work with the tribal court fact-finding panel, and LSC staff for organizing the Board meeting. Chairman Levi noted that he has an upcoming speaking engagement before the American Bar Association's House of Delegates.

During members' reports, Father Pius shared that he and Dean Minow were recently re-nominated by President Obama to serve another term on the Board.

President Sandman gave the President's Report, which included providing updates on implementing the Fiscal Oversight Task Force's recommendations; improvements being made in the grant application process; and developments in a project funded by the Public Welfare Foundation and the Kresge Foundation. Additionally, he discussed training goals for grantees; issues involving migrant census information and how migrant grants are distributed; and LSC's new Fact Book and Annual Report. Inspector General Schanz then gave the Inspector General's Report. Inspector General Schanz thanked the Board for the transmittal memo that accompanied the Semi-annual Report to Congress. He briefly discussed the OIG's website and invited suggestions from the Board for the OIG's audit planning.

Mr. Grey reported on the Pro Bono Task Force Report's implementation. He answered Board members' questions.

Father Pius gave the report of the Promotion and Provision for the Delivery of Legal Services Committee, and he was followed by Mr. Grey who presented the report of the Finance Committee.

MOTION

Mr. Grey moved to adopt the resolution approving the revised consolidated operating budget for fiscal year 2013.

VOTE

The motion passed by voice vote.

MOTION

Mr. Grey presented a resolution to adopt the continuing operating budget for fiscal year 2014.

VOTE

The motion passed by voice vote.

MOTION

Mr. Grey moved to adopt the resolution approving the budget request to Congress for fiscal year 2015 in the amount of $486 million.

VOTE

The motion passed by voice vote with Mr. Keckler voting no.

Mr. Maddox gave the report of the Audit Committee. He was followed by Mr. Keckler, who gave the report of the Operations and Regulations Committee. Mr. Keckler was followed by Dean Minow, who gave the report of the Governance and Performance Review Committee.

MOTION

Dean Minow moved to adopt a resolution to amend the LSC bylaws to include a temporary recess provision for committee meetings.

VOTE

The motion passed by voice vote.

MOTION

Dean Minow moved to adopt a resolution appointing Ronald Flagg as the Corporation's new Ethics Officer.

VOTE

The motion passed by voice vote.

Chairman Levi gave the report of the Institutional Advancement Committee.

MOTION

Chairman Levi moved to adopt a resolution approving the contents of the North Dakota Charitable Organization Registration Statement.

VOTE

The motion passed by voice vote.

MOTION

Chairman Levi moved to adopt a resolution approving the contents of the Minnesota Charitable Organization Initial Registration and Annual Report Form.

VOTE

The motion passed by voice vote.

MOTION

Dean Minow moved to approve the proposed fundraising policies: Protocol for the Acceptance and Use of Private Contributions of Funds to LSC; Board Member Giving Policy; Donor's Bill of Rights; Donor Privacy Policy; and Memorial Gifts and Gifts in Honor of Persons/Events. Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

Chairman Levi invited public comment and received none.

There was no other business to consider.

MOTION

Mr. Grey moved to authorize a closed session of the Board meeting. Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

The Board continued its meeting in closed session at 11:10 a.m.

LSC Pro Bono Task Force Report Implementation Update October 2013

LSC PRO BONO TASK FORCE IMPLEMENTATION UPDATE
OCTOBER 2013

I. PRO BONO TASK FORCE OVERVIEW

In March 2011, LSC created a Pro Bono Task Force comprised of judges, corporate general counsel, bar leaders, technology experts, leaders of organized pro bono programs, law firm leaders, government lawyers, law school deans, and the heads of legal aid organizations, to consider how to increase pro bono contributions to civil legal aid. The Task Force divided into working groups and spent months conducting interviews, identifying effective practices, and sharing ideas before reporting its findings and recommendations to the LSC Board of Directors.

In October 2012, the Pro Bono Task Force released its findings and recommendations. Implementation of the recommendations is following two tracks. The first track relates to activities that require a formal process directed by LSC such as budget requests and the promulgation of regulations. The second track is less formal and engages a broad array of stakeholders. To facilitate implementation, LSC has established a Steering Committee and four subcommittees to work on the remaining recommendations.

II. IMPLEMENTING THE TASK FORCE RECOMMENDATIONS

A. Creation of a Pro Bono Innovation Fund

One of the Task Force's key recommendations is for LSC to work with Congress to create a Pro Bono Innovation/Incubation Fund ("PBIF") and Fellowship Program. To that end, in the fall of 2012, LSC staff worked with colleagues on the Hill to fashion the contours of a Pro Bono Innovation Fund which is part of the Obama Administration and LSC's budget requests.

In its FY 2014 Budget Request, LSC is asking for $5,000,000 to establish a Pro Bono Innovation Fund. This represents approximately 1% of the overall budget request. The Innovation Fund would support new and innovative projects that promote and enhance pro bono initiatives throughout the country. It would leverage federal dollars to increase free legal aid for low income Americans by engaging private attorneys.

The President's FY 2014 Budget request asked for $1.5 million for the PBIF. The Senate set a mark of $1.5 million for the Fund and the House of Representatives budgeted $2.5 million.

Purpose. The Innovation Fund will use competitive grants to invest in projects that identify and promote replicable innovations in pro bono for the benefit of the eligible poverty population. Projects funded under this fund will develop, test, and replicate innovative pro bono efforts that can enable LSC grantees to expand clients' access to high quality legal assistance. The grant criteria would require both innovation (new ideas or new applications of existing best practices) and replicability (likelihood that the innovation, if successful, could be implemented by other legal aid programs).

LSC will allow innovation grants to be used to improve, or to implement in new locations, successful projects developed using previous Innovation Fund grants. LSC expects that each approved project will either serve as a model for other legal services providers to follow or effectively replicate a prior innovation.

An innovation grant award is not meant to substitute for, or be credited against, the longstanding requirement that LSC grantees spend an amount equivalent to 12.5% of their basic field grant funding to involve private attorneys in the delivery of legal assistance to eligible clients.

Eligible Applicants. Eligible applicants for the Innovation Fund would be existing LSC grant recipients.

Eligible Activities. The following activities are illustrative of projects that would be eligible for funding under the proposed Innovation Fund.

- Developing pro bono programs to serve rural and other hard-to-reach communities;
- Providing pro bono opportunities that engage all segments of the bar-solo practitioners, in-house corporate counsel, firm lawyers, law schools, non-profit and government attorneys, and other pro bono providers;
- Developing accessible, tested, user-friendly curricula and training programs for pro bono attorneys;
- Expanding collaborations and resource-sharing among pro bono programs in a city, state or region;
- Targeting pro bono projects to practitioners in specific areas of law, with appropriate training, mentoring, and other support for volunteers;
- Developing pro bono programs with specialized bar associations that relate to the association's expertise and interests; and
- Forming cohorts of lawyers to expand volunteerism by leveraging shared interests and experiences.

B. Revision of LSC's Private Attorney Involvement Regulation

The Task Force also recommended that LSC revise its Private Attorney Involvement (PAI) Regulation to enhance pro bono. On April 14, 2013, the LSC Board voted to convene two PAI rulemaking workshops. To date, LSC has held two workshop – the first on July 23, 2013 and the second on September 17, 2013.

Workshop #1 Details:
When: July 23, 2013 after the LSC Board Meeting, 1:30 p.m.- 4:30 p.m. MDT
Where: Warwick Denver Hotel, 1776 Grant St., Denver, Colorado 80203

Panelist	Organization	Topic 1	Topic 2	Topic 3	Other
Silvia Argueta	National Legal Aid and Defender Association (NLADA)	X	X	X	X
Steve Gottlieb	Atlanta Legal Aid Society	X	X	X	

Judge Mary Katherine Huffman	Greater Dayton Volunteer Lawyers Project	X	X		
Joan Kleinberg	Northwest Justice Project (Wash.)		X	X	
Kenneth Penokie	Legal Services of Northern Michigan	X		X	
Lisa Wood	ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID)	X	X	X	X

Workshop #2 Details:
When: September 17, 2013 from 1:30 p.m. - 4:30 p.m. EDT.
Where: F. William McCalpin Conference Center, Legal Services Corporation Headquarters, 3333 K Street, N.W., Washington, DC 20007

Panelist	Organization	Topic 1	Topic 2	Topic 3	Other
Mark O'Brien	Pro Bono Net	X	X	X	
Patricia Risser	Volunteer Lawyers Project, Legal Action of Wisconsin	X	X	X	
Melissa Skilliter	Ohio State Legal Services Association	X		X	
David Udell	National Center for Access to Justice	X			
Jennifer van Dulmen	National Association of Pro Bono Professionals	X	X	X	
John Whitfield	National Legal Aid and Defender Association (NLADA)	X	X	X	

Commenter	Topic 1	Topic 2	Topic 3
Bruce Courtade, President, State Bar of Michigan	X	X	X
Terry Lawson, Senior Staff Attorney, Legal Services of New York City	X		
David Ackerly, former Director of Private Attorney Involvement, Legal Aid Foundation of Los Angeles	X		

Specifically, the rulemaking workshops will address the following topics and questions:

Topic 1: *LSC Pro Bono Task Force Recommendation 2(a) - Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives.*

The Pro Bono Task Force identified several categories of pro bono volunteers as potential resources for LSC recipients to expand in the delivery of legal assistance. The Task Force noted that the LSC definition of "staff attorney," which is based on a compensation scheme standard, is

a barrier to full engagement by recipients of deferred associates, law students, and recent law school graduates. LSC welcomes a full discussion of engaging new categories of pro bono volunteers and of improvements to the PAI regulation that would facilitate that engagement.

Items for Discussion on Topic 1:

- How are legal service providers engaging new categories of volunteers?
- What are the needs of these new categories of volunteers?
- What are the obstacles to LSC grant recipients' full use of these volunteers?
- Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the supervision and training of these volunteers?
- How can LSC ensure against fraud, waste, or abuse related to implementing this recommendation?
- What caution should LSC exercise to ensure against any unintended consequences?
- To the extent applicable, discuss how any approaches you recommend might be implemented.

Topic 2*: LSC Pro Bono Task Force Recommendation 2(b) - Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients*.

The Pro Bono Task Force identified the benefits of integrated intake and referral systems that link clients to volunteer attorneys. Resources used by recipients to staff these integrated systems have not traditionally been recognized as eligible for PAI funds. LSC welcomes a full discussion of the relationship between integrated intake and referral systems that link clients with pro bono volunteers and the use of PAI funds.

Items for Discussion on Topic 2*:*

- How are recipients currently using integrated intake and referral systems?
- Do LSC's current PAI regulations inhibit full use of integrated intake and referral systems?
- Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to create and staff integrated intake and referral systems?
- How can LSC ensure against fraud, waste or abuse related to implementing this recommendation?
- What caution should LSC exercise to ensure against any unintended consequences?
- To the extent applicable, discuss your organization's ability to execute any recommended approaches.

Topic 3*: LSC Pro Bono Task Force Recommendation 2(c) - LSC should reexamine the rule and the prevailing Office of Legal Affairs legal opinions that mandate adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.*

The Pro Bono Task Force encouraged brief service clinics in which pro bono volunteers rely on LSC recipients to provide technical assistance, research, advice, and counsel to the volunteers. If the recipient is not providing the client service, but is providing training to pro bono volunteers, the Pro Bono Task Force recommended that the resources the recipient uses to support the training be an eligible use for PAI funds, without obligating the pro bono volunteers to screen clients for LSC eligibility or requiring the recipient accept the people served by the clinics as its own clients. LSC welcomes a full discussion of the use of pro bono volunteers in such clinics and invites input on improvements to the existing regulations to facilitate such use.

Items for Discussion on Topic 3*:*

- How are recipients currently using or supporting pro bono volunteers in brief service clinics?
- What are the obstacles to recipients' use of pro bono volunteers in brief service clinics?
- Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics?
- If LSC were to allow recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics under circumstances where the users of the clinics are not screened for LSC eligibility or accepted as clients of the recipient, how could that change be implemented in a manner that ensures compliance with legal restrictions on recipients' activities and uses of LS funds?
- How can LSC ensure against fraud, waste or abuse related to implementing this recommendation?
- What caution should LSC exercise to ensure against any unintended consequences?
- To the extent applicable, discuss your organization's ability to execute any recommended approaches.

In addition to the topics reference above, the September 17th PAI workshops also asked participants to address the following questions:

1. Law Students and Pre-Admission Law Graduates
    - Should Part 1614 include or exclude the expenses related to those internships?
    - How would including those existing internships increase pro bono activities? Are internships "pro bono" if they are paid or carry academic credit?
    - If not, should they nevertheless be recognized as private attorney involvement under Part 1614?
    - For law schools that have pro bono requirements, what are the criteria for meeting those requirements?
    - How could Part 1614 relate to those requirements and to the requirements for admission to the bar of New York?
    - If law students and pre-admission law graduates are included in the rule, then what types of activities should count as involvement in the delivery of legal assistance to eligible clients?
2. Non-Legal Professionals
    - A number of comments recommend including CPAs and other non-legal professionals providing free or discounted services relevant to representation of

eligible clients. How would including them in Part 1614 lead to an increase in pro bono legal services?

3. Lawyers Not Admitted in the Relevant Jurisdiction
   - A number of comments suggest including lawyers who are on retired status, licensed in other jurisdictions, or otherwise not licensed in the grantee's jurisdiction.
   - For states without rules permitting limited practice by those attorneys, what standards or criteria can LSC apply for the types of work that these lawyers can assist with that would constitute involvement in the delivery of legal assistance to eligible clients, without constituting the unauthorized practice of law?

4. Definition of a Private Attorney
   - The current definition of a private attorney is based on whether the attorney earns more than one-half of her professional income from LSC funds, an LSC grantee, or an LSC subgrantee or contractor.
   - If LSC addresses this issue, should LSC create exceptions for underemployed attorneys or should LSC revise the definition entirely?
   - Should the definition of a private attorney be based on whether the attorney has paid full-time or part-time LSC-related employment rather than on the attorney's earnings?
   - Should Part 1614 include the use of non-LSC funds as a subgrant to provide support to attorneys working at a staff-attorney model legal aid program that receives no LSC funds?

5. Screening
   - Some commenters recommend limited screening for pro bono clinics supported by LSC grantees.
   - What would the requirements be for limited screening, how would they differ from the 1611 and 1626 requirements, and how would they satisfy compliance concerns?
   - Alienage screening is a particular concern, because the alienage restriction applies to all funding sources for LSC grantees. Can you suggest how to address alienage screening if LSC reconsiders the full screening requirement of OLA legal opinion EX-2008-1001 in clinics for which LSC grantees provide organizational and technical support?

6. Tracking Case Services
   - Many comments express the concern that tracking pro bono cases as grantee cases could create unnecessary conflicts for grantees. Please suggest methods of tracking pro bono case services and referrals to provide accountability without creating conflicts.
   - One comment suggested tracking pro bono casework to determine the outcome of the case and how the client benefited. Are there other minimum criteria that you recommend for tracking pro bono casework?
   - If LSC revises the requirement for tracking of pro bono cases and referrals, should all cases be tracked individually, or are there circumstances in which you recommend other methods of determining whether the referrals are effective?

PAI Next Steps:

All written comments on revising the PAI rule, 45 CFR part 1614, must be received by 5:30 p.m. EDT on October 17, 2013.

After all comments have been synthesized and analyzed, the Office of Legal Affairs will present an options paper to for the Board to consider in 2014. (Is this right?).

C. Implementation Steering Committee and Subcommittees

To oversee the implementation of the remainder of the Task Force's recommendation, the LSC Board of Directors established a Steering Committee and collaborated with the ABA's Pro Bono Committee to outline the scope of the subcommittees. The subcommittees are:

1. Pro Bono Toolkit, Technology, and Effectiveness Implementation Subcommittee;
2. Pro Bono Culture Change Subcommittee;
3. Pro Bono Fellowship Subcommittee; and
4. Pro Bono Rules Change Implementation Subcommittee

Subcommittees are comprised of LSC Board members, LSC grantees, members of the private bar, the judiciary as well as interested stakeholder groups. We want to be as inclusive as possible and leverage resources from the legal services community.

Pro Bono Toolkit, Technology, and Effectiveness Implementation Subcommittee		
Scope:	This subcommittee will focus on developing a toolkit and technology platform for LSC grantees to strengthen and enhance their pro bono efforts. It will also focus on measuring and evaluating the effectiveness of pro bono programs to better coordinate efforts and research to maximize the success of pro bono programs.	
Rec. #1.	LSC should serve as an Information Clearing house and Source of Coordination and Technical Assistance to help grantees develop strong pro bono programs.	
Rec. 1.2:	Create a professional association specifically for pro bono managers at LSC grantees.	
Rec. 1.3:	Develop a pro bono tool kit.	
Co-Chairs:	Martha Minow, LSC Board Julie Reiskin, LSC Board	Nan Heald, Pine Tree Legal Services Esther Lardent, Pro Bono institute
Members:	Scott Cummings, UCLA School of Law	Lora Livingston, Travis County District Court
	Colleen Cotter, Legal Aid Society of Cleveland	Michael Monahan, State Bar of Georgia, Pro Bono Project
	Lisa Dewey, DLA Piper	Dave Pantos, Legal Aid of Nebraska
	L. Joseph Genereux, Dorsey & Whitney, LLP	Linda Rexer, Michigan State Bar Foundation

	Robert Gillett, Legal Services of Central Michigan	Maureen Syracuse, APBCo
	Terry Hamilton, Lone Star Legal Aid	Angela Vigil, Baker and McKenzie, LLP
	Anne Geraghty Helms, DLA Piper	Cheryl Zalenski, ABA
	Ellen Lawton, EL Consulting	Jennifer van Dulmen (point person for NAPBPro)
Goals	**Goals 1 & 2:** Enable LSC and its grantees to more effectively assess existing pro bono efforts and to identify areas of expansion and improvement. Review and catalog efforts under way or in the planning stages to assess the effectiveness, outcomes, and impact of pro bono work. **Goal 3:** Build a website/resource for grantees to identify, access, build, and scale the most effective pro bono programs. **Goals 4 and 5:** Take innovations to a national scale/Develop collaborative models.	
Status:	• Co-chair conference call: April 12, 2013 • Co-chair conference call: May 6, 2013 • Co-chair conference call: June 17, 2013 • Full Subcommittee call: July 17, 2013 • Goals 1 & 2 conference call: August 13, 2013 • Goal 3 conference call: September 11, 2013 • Goals 4 & 5 conference call: September 23, 2013 • Work plan updated in July. Work is organized around the goals listed above. • DLA is providing assistance in compiling a spreadsheet of the components of all LSC PAI plans. We will then analyze the data to determine what improvements can be made to the PAI plans.	

Pro Bono Rules Change Implementation Subcommittee		
Scope:	This subcommittee will explore options to change judicial, CLE and other state rules to promote and support pro bono.	
Request #3.	Judges and Bar Leaders should amend attorney practice, judicial ethics, and CLE rules to support pro bono. Provide CLE credit for pro bono work. Revise judicial codes of conduct to allow judges to encourage lawyers to provide pro bono legal services. Explore other state rule changes that would encourage additional pro bono work by the private bar. Create or strengthen State Access to Justice commissions.	
Co-Chairs:	Harry Korrell, LSC Board	Judge Jim Moyer, U.S. Magistrate, Western District of KY

	Laurie Mikva, LSC Board	
Members:	Renee Chantler, DLA Piper	Mary Ryan, Nutter, McClennen & Fish, LLP
	Lisa Dewey, DLA Piper	Steve Scudder, ABA
	Hon. Janice Holder, Tennessee Supreme Court	Hon. Richard Thornburgh, K&L Gates LLP
	Jane LaBarbera, American Association of Law Schools	Ginny Martin (point person for NAPBPro)
Status:	• Co-chair conference call: April 24, 2013 • Full Subcommittee call: June 21, 2013 • Full Subcommittee call: September 13, 2013 • Subcommittee members provided feedback on the inventory of laws and asked for additional analysis as well as a breakdown on states with mandatory CLE, mandatory bars, and unbundling rules. During its next call the Subcommittee will be: • Identifying the rules that should be part of the overall package. • To what extent, does the group want to undertake more controversial issues such as mandatory pro bono reporting? • What organization or organization(s) are the appropriate messengers to spearhead these efforts?	

Pro Bono Fellowship Development Committee		
Scope:	This subcommittee will research and develop options for potential "fellowship"-type opportunities at various stages in a lawyer's career.	
Rec. #4.	LSC should create a fellowship program to foster a lifelong commitment to pro bono.	
Co-Chairs:	John Levi, LSC Board Charles Keckler, LSC Board	David Stern, Equal Justice Works
Members:	Margaret Benson, Chicago Volunteer Lawyers Fdn.	John Rosenberg
	Ronald Flagg, LSC	Jim Sandman, LSC
	Steve Grumm, ABA	Jennifer van Dulmen, Community Legal Services
	Roberta (Bert) Ritvo, DLA Piper	John Whitfield, Blue Ridge Legal Services
Status:	• Co-chair conference call: May 8, 2013 • Co-chair conference call: May 29, 2013 • Full Subcommittee call: June 26, 2013 • This committee developed a number of fellowship proposals that included	

	pro bono fellowships and non-pro bono fellowships. • In order to avoid duplication of effort, the work of this committee has been transferred to the Board's Institutional Advancement Committee

Pro Bono Culture Change Implementation Subcommittee		
Scope:	This subcommittee will build on and amplify the successes of various public relations campaigns and other initiatives that instill the value of pro bono among members of the bar.	
Rec. #3.	LSC should launch a Public Relations campaign on the importance of pro bono.	
Co-Chairs:	Sharon Brown, LSC Board Gloria Valencia-Weber, LSC Board	JoAnn Wallace, NLADA
Members:	Lisa Dewey, DLA Piper	Larry McDevitt, Van Winkle Law Firm
	Douglas Eakeley, Lowenstein Sandler, LLP	Steve Scudder, ABA
	Richard Gruenberger, DLA Piper	Paige Sessenbrenner, Adams & Reese, LLP
	Anne Geraghty Helms, DLA Piper	John Whitfield, Blue Ridge Legal Services
	George Hettrick, Hunton & Williams	Lisa Wood, Foley Hoag, LLP
	Maha Jaweid, Department of Justice	
Status:	• Co-chair conference call: April 24, 2013 • Co-chair conference call: June 4, 2013 • The subcommittee is working to recalibrate and re-scope its efforts.	

IX. Pennsylvania Supreme Court Courtroom & LSC Grantee Panel Presentations

Justices and Judges Panel

Pro Bono Collaboration Panel

Panel of Chief Justices, Justices and Judges
October 21, 2013
Pennsylvania Supreme Court Courtroom

Chief Justice Brent D. Benjamin, Supreme Court of Appeals of West Virginia

Chief Justice Brent D. Benjamin was elected to a twelve-year term on the Supreme Court of Appeals of West Virginia in November 2004. He is a native of Marietta, Ohio. Chief Justice Benjamin is a graduate of The Ohio State University, from which he holds a bachelor's degree and a Juris Doctor degree, and where he played varsity sports. After graduation from law school in 1984, he settled in Charleston, West Virginia, and joined the Robinson & McElwee, PLLC, law firm, eventually becoming a partner/member. Chief Justice Benjamin is a regular speaker at national and international forums, including the American Bar Association's Annual Meeting, the National Press Club in Washington D.C., and at numerous law schools and a variety of bar-related groups. Chief Justice Benjamin also frequently appears as a guest on radio and television broadcasts and in print media to explain the judicial system and constitutional principles.

On the Supreme Court of Appeals, Chief Justice Benjamin has been a leader in the expansion of treatment courts in West Virginia, including Drug Courts, Veterans Courts, and Mental Health Courts. He has actively advanced court access issues, children's issues, drug and mental health issues, and domestic violence issues. As Chief Justice in 2009, he established West Virginia's Access to Justice Commission, a Compliance Committee on Prisons and Jails, a nationally-acclaimed Domestic Violence Database, and a statewide Mental Hygiene Registry. He also has worked to enhance and expand court outreach, public education, and media-court relations. Chief Justice Benjamin's twenty-year practice at Robinson & McElwee involved general civil litigation in state and federal courts, including civil rights, toxic torts and complex litigation. His civil rights practice focused on protecting children from physical and sexual abuse. He has practiced before the United States Fourth Circuit Court of Appeals, the United States District Court for the Southern District of West Virginia, the Supreme Court of Appeals of West Virginia, and before various courts in the Commonwealth of Kentucky.

Chief Justice Benjamin is a fellow of the Salzburg Seminar in Austria, a graduate of Leadership West Virginia, a member of the Judicial Division of the American Bar Association, and a member of the Hocking College Archaeological Mission and the Amenmesse Project. Away from his judicial duties, he has actively participated in archaeological excavations in the United States and Egypt, including, most recently, the excavation of KV10 and KV63 (the first intact tomb to be discovered in the Valley of the Kings since the discovery of the tomb of Tutankhamun) and the re-excavation of TT320 (also known as the "Royal Cache Tomb"). Chief Justice Benjamin attends Christ Church United Methodist, in Charleston, and is the father of five children.

Chief Justice Ronald D. Castille, Supreme Court of Pennsylvania

Term
January 2004 - December 2013

Education
Auburn University (B.S.), 1966
University of Virginia School of Law (J.D.), 1971

Military Experience
U.S. Marine Corps, 1st Lieutenant, rifle platoon commander, Vietnam. Medically retired. Bronze Star Medal w/Combat "V" for bravery, two Purple Heart Medals, Vietnamese Cross of Gallantry, Presidential Unit & Naval Unit Citations; Combat Infantry Badge.

Professional Experience
Assistant and Deputy District Attorney, Philadelphia, 1971-85
District Attorney, Philadelphia, 1986-91
Private practice, Reed, Smith, Shaw & McClay, 1991-1993
Justice of the Supreme Court of Pennsylvania, 1994-2007
Sworn in as Chief Justice of Pennsylvania, January 2008 to present.

Memberships and Associations
Conference of Chief Justices, director and member
American Bar Association Future of Legal Education Task Force
Pennsylvania Center for Adapted Sports, director
Philadelphia Vietnam Veterans Memorial Fund, secretary and vice president
Philadelphia USO, director
National Alliance for Model State Drug Laws, director
President's Commission on Model State Drug Laws, commissioner (1992-1993)
Pennsylvania Advisory Committee for the United States Commission on Civil Rights (1992-1997)
Pennsylvania District Attorneys Association, Legislative Chairman (1986-1991)
National District Attorneys Association, Vice President and Legislative Chairman (1986-1991)
Urban Coalition of Philadelphia, board member (1988-1991)
Criminal Justice Coordinating Commission, executive board member (1986-1991)
Police Athletic League, board member (1986-1991)
Cradle of Liberty Council, Boy Scouts of America, executive committee (1986-2000)

Awards and Honors
Caroline Earle White Award (Pa. SPCA), 1988
Distinguished Public Service Award, Pennsylvania County and State Detectives Association, 1987
Pennsylvania Chiefs of Police Association, Layman Award, 1987
Fraternal Order of Police Lodge No. 5, Man of the Year, 1988
National Disabled American Veterans, Outstanding Disabled Veteran of the Year Award, 1988
Pennsylvania Disabled American Veterans, Outstanding Disabled Veteran of the Year, 1988
Institute for the Study of American Wars, Spirit of America Award, 1988
National District Attorneys Association, President's Award for Outstanding Service, 1991
Marine Corps Law Enforcement Foundation, Profiles in Courage Award, 1997
Military Order of World Wars Patrick Henry Award for Patriotic Achievement, 2000
Marine Corps Scholarship Foundation Award 2002
Philadelphia District Attorneys Alumni Association Raymond J. Harley Award, 2007
Philadelphia Brehon Law Society Freedom and Justice Award, 2008
Justinian Society Outstanding Service Award, 2008

Lawyers' Club of Philadelphia, 2010
Pennsylvania Bar Foundation/Pennsylvania Bar Association Judge of the Year Award, 2011
Society of The Friendly Sons of St. Patrick Distinguished Service Award, 2012
Pennsylvania Legal Aid Network (PLAN) Excellence Award, 2011 and 2013
Philadelphia Bar Association William J. Brennan Distinguished Jurist Award, 2013

Personal
Born: 1944, Miami, Fl.

Chief Judge Ben C. Clyburn, District Court of Maryland

Judge Ben C. Clyburn, Associate Judge, District Court of Maryland, District 1, Baltimore City, since February, 1995.

Judge Clyburn attended the Baltimore Polytechnic Institute, Baltimore, Maryland (1972). He was then appointed to the United States Air Force Academy by Senator Paul Sarbanes. He was medically disqualified from the United States Air Force Academy in 1973. He completed his undergraduate studies at the University of Maryland, College Park in 1978. He then attended the University of Maryland School of Law and received his Juris Doctorate Degree in 1981. He was admitted to the Maryland State Bar in 1981.

He was appointed by Attorney General Stephen Sachs in 1981 as an Assistant Attorney General to the Maryland Motor Vehicle Administration. He served as in-house counsel to the Motor Vehicle Administration until 1983. He was then appointed as an Assistant Attorney General to the Office of General Counsel to the Maryland Department of Transportation, and served as counsel to the Department of Transportation Minority Business Certification Council. He also worked on various procurement matters such as the Medivac Helicopter Procurement. He was the recipient of the Outstanding Assistant Attorney General Award for Exceptional Service in 1985.

In 1991, he was appointed as Assistant Attorney General to the Criminal Investigation Division of the Office of the Attorney General. He specialized in the investigation and prosecution of economic crimes. In 1993, Attorney General Joseph Curran promoted Ben Clyburn to the position of Chief Counsel to the Department of Transportation. He oversaw the legal staff for the various modes of transportation including the Motor Vehicle Administration, State Aviation Administration, Mass Transit Administration, Maryland Port Administration, State Highway Administration and the Maryland Transportation Authority. He served as General Counsel to the Secretary of Transportation.

In 1995, Governor William Donald Schaefer appointed Ben Clyburn as an Associate Judge to the District Court of Baltimore City. On December 29, 2004, Chief Judge Robert M. Bell appointed Judge Clyburn to the position of Chief Judge of the District Court . Judge Clyburn serves on the Administrative Judges Committee, Judicial Cabinet, Judicial Council, the Bail Bond Task Force and Technology Oversight Board. He is an active member in the ABA and serves on the Task Force on Problem Solving Courts.

As Chief Judge of the District Court, Judge Clyburn has made it his top priority to increase access to the court for all Marylanders. To achieve this laudable objective, Judge Clyburn has been working tirelessly to engage justice partners and the community at large in an effort to connect all four levels of court in a statewide electronic case management system.

The Maryland Electronic Courts (MDEC) project will create a single Judiciary-wide integrated case management system that will be used by all the courts in the state court system. As chair of the MDEC advisory committee, Chief Judge Clyburn has been an integral liaison with private sector contractors and the coordinator of internal development within the Judiciary. Chief Judge Clyburn has presented on a number of occasions the progress and development details of MDEC, and is leading all collaborative efforts to ensure an effective and efficient statewide rollout of the MDEC system.

Magistrate Judge Maureen P. Kelly, United States District Court, Western District of Pennsylvania

Magistrate Judge Maureen P. Kelly was born in Youngstown, Ohio, the oldest of six children in a household influenced by strong Irish-Catholic roots. She is a graduate of the University of Notre Dame and Duquesne University School of Law.

Following law school, Magistrate Judge Kelly worked as an associate and then partner at Thorp, Reed & Armstrong, where she specialized in commercial and employment litigation. In 1999, she joined Babst, Calland, Clements & Zomnir as a shareholder, chairing the Employment and Labor Services Group. Her practice primarily concentrated on the litigation of issues related to Title VII of the Civil Rights Act of 1964, the American Disabilities Act, the Age Discrimination in Employment Act, as well as restrictive covenants, employment contracts and FLSA collective actions.

As a trial lawyer, Magistrate Judge Kelly received the national honors of induction into the American College of Trial Lawyers in 2007 and the Litigation Council of America in 2008. She was elected to the Academy of Trial Lawyers of Allegheny County in 1996 and is a Fellow in the Academy of Trial Advocacy. She was listed in the Labor and Employment Section of The Best Lawyers in America® from 2008 to 2011. She was recognized as a Pennsylvania Super Lawyer from 2005 to 2011 and was listed as one of Pittsburgh's Top 50 Lawyers and one of Pennsylvania's Top 50 Women Lawyers. She has served in leadership roles as a member of the Pennsylvania State Committee of the American College of Trial Lawyers and the Board of Governors of the Academy of Trial Lawyers of Allegheny County.

Judge Kelly has served the courts in a variety of roles. She was appointed by the Pennsylvania Supreme Court to serve as Chair of the Interest on Lawyers Trust Account Board and recently completed a five year term. She has also served as an appointed member of the Lawyers Advisory Committee to the United States Court of Appeals for the Third Circuit as well as Chair of the Merit Selection Panel for the Selection and Appointment of Magistrate Judge for the Western District of Pennsylvania.

Judge Kelly currently serves as co-chair of the Allegheny County Bar Association ("ACBA") Gender Equality Committee. She has served as chair of the ACBA's Civil Litigation Section Council as well as an elected member of the Judiciary Committee. On a statewide level, Judge Kelly served as co-chair of

the Pennsylvania Bar Association Task Force on Student Loan Forgiveness and as an appointed member on the Task Force on the Delivery of Legal Services to the Poor. She recently completed a three year term on the nine-member American Bar Association Commission on the Interest on Lawyers Trust Accounts. Judge Kelly has always been dedicated to the delivery of civil legal aid to those in need. She served as President of Neighborhood Legal Services Association and chaired the annual Equal Justice Under Law Campaign for many years. She was a member of the board of directors of Pennsylvania Legal Services from 1996 to 2003.

In addition, Judge Kelly has been active in civic and charitable organizations. She currently serves on the board of the Carnegie Museum of Natural History. She served on the Advisory Board of the Center for Social Concerns at the University of Notre Dame. She has also served on the boards of other non-profit programs in Western Pennsylvania.

Judge Kelly has been the recipient of awards recognizing her professional accomplishments. In February 2008, The Penn State Dickinson School of Law awarded her the Sylvia H. Rambo Award in recognition of her distinguished legal career and her efforts on behalf of women in the profession. In March 2007, the Pennsylvania Legal Aid Network presented Judge Kelly with the Outstanding Leadership in Support of Legal Services award. This award recognizes commitment to the delivery of legal services to the poor in Pennsylvania. She was presented with the Susan B. Anthony Award in February 2007 by the Women's Bar Association. This award honors an outstanding member of the legal community who demonstrates dedication to encouraging and promoting women in the law and maintaining the highest professional standards in the courts and legal profession. In June 2006, Judge Kelly was presented with the Dorothy Ann Richardson Award by the Neighborhood Legal Services Association, in recognition of service and advocacy for equal justice for all. Judge Kelly also was named Woman of the Year in May 2004 by the Women's Law Association of Duquesne University School of Law. She was presented with the 1999 Duquesne University School of Law Outstanding Alumni Achievement Award for her achievements in the legal profession and service to the community.

Judge Kelly is married and is the mother of two children.

Partnerships in Promoting Pro Bono Activity
October 21, 2013
Pennsylvania Supreme Court Courtroom

Dottie Alke, Vice President and Senior Counsel, CBS Corporation

Dorothy M Alke is Vice President and Senior Counsel at CBS Corporation (formerly Westinghouse Electric Corporation), and has been with the corporation for 27 years. She began her career at Westinghouse as the Contracts Manager of the R&D Center, then moved to Manager of Business Integration for the Environmental Services Division. She joined the corporate law department in 1994, as Director of the Bloomington Project to manage the corporation's liabilities for multiple Superfund sites in Bloomington, IN. Her current duties include management of the Westinghouse trademark licensing program, the discontinued operations of Spelling Entertainment Group (f/k/a Charter), and various legal and project management matters for numerous Westinghouse environmental sites. She received her BA and JD from Duquesne University, and is licensed to practice law in Pennsylvania and the U. S. District Court for Western Pennsylvania. She is part of the CBS Law Department's Pro Bono and Diversity Committees, and is the CBS representative for the Pittsburgh Pro Bono Partnership. In addition to the executive work she does with the Partnership, her primary pro bono work with the Partnership has been on the Signature Project handling Child Custody Conciliations

Lori A. Chumbler Associate General Counsel, Legal Administration & External Relations, Wal-Mart

A cum laude graduate of the University of Arkansas, Lori Chumbler earned her B.A. in History in 1990. She went on to attend Drake University Law School, where she graduated with honors in 1993. She was admitted to the Arkansas Bar in August of that year. After law school, Chumbler served as a deputy prosecuting attorney in Arkansas' Nineteenth Judicial District. From 1996 to 2006, Chumbler worked as a law clerk for the Honorable Justice Donald L. Corbin of the Arkansas Supreme Court. She joined the Walmart Legal Department in 2006.

Chumbler is currently Associate General Counsel for Walmart and serves on the Legal Administration and External Relations team. She serves as coordinator for Walmart's pro bono medical-legal partnership (MLP) project and counsel to the Walmart Foundation.

Chumbler was honored in 2012 by the American Bar Association with its Outstanding Pro Bono Advocacy in Medical-Legal Partnerships Award, and by the Arkansas Bar Association as the recipient of the Equal Justice Distinguished Service Award.

Stephen Dickinson, Executive Director, Central Virginia Legal Aid Society, Inc.

Petra Jimenez Maes was elected to the State's highest court, the Supreme Court in November 1998 becoming the first Hispana to serve on the court. On January 8, 2003 she was designated by unanimous vote of her colleagues to serve as Chief Justice. She served as Chief Justice until January 2005. While other Latino/Hispanic men have served as Chief Justice, she ushered in a new era as the first Hispanic Woman Chief Justice of the New Mexico Supreme Court. She is currently serving her second term (2012-2014) as Chief Justice.

John G. Finneran, Jr., General Counsel and Corporate Secretary, Capital One Foundation

Mr. Finneran is General Counsel and Corporate Secretary of Capital One Financial Corporation and leads its Corporate Reputation and Governance organization.

Capital One, headquartered in McLean, Virginia, is a diversified Fortune 200 company with more than 65 million customer accounts worldwide and one of the most recognized brands in America. Through its national lending and deposits businesses and banking franchise in Louisiana, Texas, Maryland, Virginia, Washington, DC and the New York region, Capital One offers a wide range of financial products, including credit cards, auto loans, small business loans, commercial loans, deposits and savings products.

Serving as General Counsel and Corporate Secretary since 1994, Mr. Finneran is the senior legal advisor to the Board of Directors and the senior management of Capital One. He is a key member of Capital One's senior executive team and serves on the company's Executive Committee, a committee of senior management.

Mr. Finneran has broad executive responsibilities and oversight over the activities of Capital One's Corporate Reputation and Governance organization, including the Legal Department, Government Affairs, Regulatory Relations, Corporate Audit & Security Services, Community Relations, Philanthropy and Corporate Communications. He also leads Capital One's efforts to enhance and protect its corporate reputation through its relationships with business, governmental, regulatory, advocacy and community organizations.

Prior to joining Capital One, Mr. Finneran served for three years in progressively senior legal positions with the Federal Deposit Insurance Corporation, including as Associate General Counsel (Resolutions) and Acting Deputy General Counsel.

Before joining the FDIC, Mr. Finneran practiced law for ten years in the Washington, D.C. office of Cleary, Gottlieb, Steen & Hamilton. His business- related practice covered a variety of areas, including corporate, securities, mergers and acquisitions, financial institutions, asset-backed structured finance, litigation and litigation management.

Mr. Finneran is a graduate of Georgetown University Law Center (Magna Cum Laude) and the Pennsylvania State University.

Barbara Griffin, Pro Bono Coordinator, Allegheny County Bar Foundation

Barbara Griffin is the Pro Bono Coordinator for the Allegheny County Bar Foundation, where she creates, manages, and supports legal services programs that provide volunteer attorneys to low-income persons facing legal issues that threaten basic human needs such as housing, employment, income maintenance, and family structure. She is a frequent lecturer on topics relating to the legal needs of low-income individuals and the provision of pro bono legal services.

Although she began her legal career in private practice at both large and small law firms, Ms. Griffin has spent most of her career in public interest law. She served as an Assistant Attorney General for the State of Texas, where she provided general counsel to the agency and wrote advisory opinions on a wide range of legal issues. She worked for the Texas House of Representatives writing reports and summaries of legislative developments on public policy issues for state legislators. She also served as a law clerk to the Honorable Gene Strassburger in the Civil Division of the Allegheny County Court of Common Pleas.

Ms. Griffin is member of the Pennsylvania Bar Association and co-chair of the Legal Services to the Public Committee. She served on the 2011 PBA Task Force on the Interbranch Juvenile Justice Report. Ms. Griffin is also a member of the Allegheny County Bar Association and serves on the council of the Homer S. Brown Division.

Ms. Griffin received her J.D. from the University of Texas School of Law in Austin, Texas, where was as an Executive Editor of the *Texas Law Review*. She holds a Bachelor of Science degree in international relations from Georgetown University in Washington, D.C.

Kathryn M. Kenyon, Pietragallo Gordon Alfano Bosick & Raspanti, LLP

Kathryn M. Kenyon is a partner in the Employment & Labor, Litigation and Health Care Practice Groups of Pietragallo Gordon Alfano Bosick & Raspanti, LLP.

Ms. Kenyon has a broad range of litigation experience. While she currently focuses her litigation practice on complex commercial matters; civil rights litigation; defense of claims of professional malpractice; and employment litigation defense; she has handled cases involving real estate litigation, including lease disputes, tax assessment and appeal, eminent domain and zoning issues; intellectual property; products liability, bad faith, insurance coverage, and many other disciplines. She has successfully represented a variety of clients in extended pre-trial negotiations, at trial, and in federal and state proceedings.

Ms. Kenyon is Chair of the Administrative Board of the Allegheny County Bar Foundation's Pittsburgh Pro Bono Partnership and is a member of the Board of Directors of the Neighborhood Legal Services Association where she serves as Treasurer. She is a former member of the United Way of Allegheny County's Women's Leadership Council. Ms. Kenyon was past Treasurer of the

Allegheny County Bar Association's Young Lawyers Division and served as Chair of its Public Service Committee for over six years.

Ms. Kenyon was a recipient of the Pennsylvania Legal Aid Network 2013 Excellence Award which recognized Ms. Kenyon for her efforts in support of the clients served by the civil legal programs of the Pennsylvania Legal Aid Network. In addition, she was given the Outstanding Achievement Award by the Duquesne University Law Alumni Association for 2013 and is a past recipient of the Allegheny County Bar Association's 'Outstanding Young Lawyer Award', presented to a young attorney who best exemplifies leadership and distinguished service to the legal profession and the community at large.

Ms. Kenyon was selected by *The Legal Intelligencer* as a Lawyer on the Fast Track for 2010. Ms. Kenyon has also been selected as a *Pennsylvania Super Lawyers Rising Star* for 2010, 2011, 2012 and 2013 in the area of Health Care and from 2005 through 2009 in the area of Business Litigation.

Robert Racunas, Executive Director, Neighborhood Legal Services Association

Mr. Racunas received his law degree from the University of Pittsburgh in 1971 and has served as the Executive Director of Neighborhood Legal Services Association since 1980. He was an adjunct professor at Duquesne University School of Law for twenty years and was formerly a member of the Pennsylvania Interest on Lawyers Trust Account (IOLTA) Board and a Hearing Committee member of the Disciplinary Board of the Supreme Court of Pennsylvania. Mr. Racunas has been active in the bar associations at the local, state, and national levels. In addition to being a past President of the Allegheny County Bar Association, he served on the Board of Governors, was chair of the Federal Court Section, a member of the Family Law Section, the Opportunities for Minorities in the Law Committee, the Public Service Committee, the Lawyer Referral Committee, the Social Security Committee, and the Western Pennsylvania Federal Bar Association. He is an Allegheny County Bar Foundation Fellow and a member of the Women's Bar Association of Western Pennsylvania. Mr. Racunas is a member of the Pennsylvania Bar Association House of Delegates, a former co-chair of the PBA Legal Services to the Public Committee and a former member of the Government Regulation of the Profession Committee, the Goffman Award Committee, and the PBA Membership Committee. He was appointed by PBA Presidents to four special task forces and is a Pennsylvania Bar Foundation Fellow. Mr. Racunas is a member of the American Bar Association and a former member of the American Bar Association House of Delegates, the ABA Committee on Equal Opportunity in the Legal Profession, Labor and Employment Law Section, the Public Sector and Government Lawyers Division, and is co-chair of the Pennsylvania ABA Membership Committee. He has been honored as a Pitt Varsity Letter Club Awardee of Distinction, Pennsylvania Legal Aid Network Excellence Awardee, Pitt Mon Valley Panther Club Person of the Year, the 2006 University of Pittsburgh School of Law Distinguished Alumni Awardee, and received a 2013 University of Pittsburgh 225th Anniversary Medallion presented by the Chancellor and Law School Dean. He was also a 2012 Pitt Law Academy Lecturer. Other local involvement included his service as chair of the

Nottingham Township Zoning Hearing Board and board member of the Mon Yough Mental Health Association.

Lee Richardson, Executive Director, Legal Aid of Arkansas Inc.

Lee Richardson is a native of Melbourne, Arkansas and a graduate of Melbourne High School. He was admitted to practice in Arkansas in 1987 and began his legal career in solo practice in Melbourne, then had a brief stint as an Inmate Attorney for the Arkansas Department of Corrections before joining Legal Services of Northeast Arkansas in 1991. During his Legal Aid career, he has served in several capacities including staff attorney, managing attorney, litigation director, and deputy director. In 2005, Mr. Richardson became the executive director for Legal Aid of Arkansas. He had previously served for two years as executive director of Legal Services of Northeast Arkansas.

Mr. Richardson is a member of the Arkansas and Craighead County Bar Associations. He is a member of the National Legal Aid and Defenders Association Leadership and Diversity Committee and serves on the Diversity Committee of the Arkansas Bar Association. He is an ex-officio member of the Arkansas Access to Justice Commission.

Mr. Richardson was commissioned as a Military Police Officer and served in the United States Army Reserve as Executive Officer of the 362nd Psychological Operations Company, attaining the rank of Captain.

Mr. Richardson is married to Mary Jackson-Richardson and has two children, Victor, a recent law school graduate currently serving in the Justice for Arkansans AmeriCorps program, and Sabrina, a student at Jonesboro high school.

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LSC Grantee Panel

LSC Grantee Panel Presentation
October 21, 2013
Pittsburgh, Pennsylvania

Robert Brenner, Executive Director, Southwestern Pennsylvania Legal Services, Inc.

Robert Brenner, graduate of Stanford University ('68) and Yale Law School ('72) commenced practice in the private sector with Cahill Gordon in New York City, then joined legal services, appointed Executive Director of Southwestern Pennsylvania Legal Services in 1974, a position which he holds today. Throughout his career, Rob has endeavored to promote development of a broad range of qualitative services to the low income population served by his program. Innovation in service delivery has been a prime component guiding the strategic plan to achieve that objective.

In the mid-70s, Rob developed collaborative projects with a variety of agencies and advocate groups in the Mon Valley directed at assisting the great number of traditionally self-sufficient blue collar workers, negatively impacted by the "rust belt" decline of the area's traditional steel industry, then confronting the challenges - many for the first time - of unemployment and poverty.

To meet the needs of the large percentage of elderly in the region, Rob entered into partnership in 1975 with the Mon Valley Area Agency on Aging, developing a legal services component that, almost 40 years later, provides specialized counsel and representation to that population.

In the 1980's Rob developed and pioneered utilization of the "Comprehensive Assistance/Action Project, (CAAP)" a holistic approach, that sought to identify potential legal problems of the targeted clientele that might be remedied through effective preventive intervention at an early point; in addition, CAAP identified and helped the program staff facilitate its clientele to obtain additional public benefits to improve their well-being.

In 1987, Rob partnered with the Dean of the University of Pittsburgh Law School, launching the SPLAS-Pitt Law Clinic, now in its 27th year, with over 11,000 clients served and an in-kind valuation of over $1,000,000 to the program.

In the late 1990s, Rob worked with the Executive Directors of Neighborhood Legal Services and Laurel Legal Services to formulate a unique approach to programmatic reconfiguration – the Southwestern Pennsylvania Legal Services Consortium – that endeavored to combine the benefits of 1) collaborating with one another in effecting more effective, efficient and productive outcomes for their combined 12 (later 14) southwest regional clientele; 2) preserving the strengths and qualities of each program, maintaining the well-developed local identity, presence, and network of relations with bench, bar and community entities. The Consortium, now in its 17th year, has exceeded expectations.

In the past ten years, Rob has led efforts to develop a number of other projects to enhance the scope and impact of legal services:

The Department Of Justice Office of Violence Against Women-funded "Protection and Empowerment Initiative" involving SPLAS, and each Domestic Violence and Sexual Assault program in the region in delivering holistic legal services to victims of domestic and sexual violence;

PA I-CAN E-File, funded initially with a Technology Grant from LSC, which utilized the Orange County I-CAN platform, adding a Pennsylvania State tax component, and, in four years helping return $35,000,000 in Earned Income Tax Credits and other Credits to citizens of the Commonwealth;

The West Penn Rural Fair Housing Initiative, commenced in 2008 and ongoing, involving program collaboration with four legal services program partners and six rights advocate agencies, providing an ensemble of services, each funded with HUD FHIP grants, targeting the Protected Classes throughout the 24-county region of Western Pennsylvania, involving Education and Outreach, Protection and Enforcement, Affirmative Furthering Fair Housing, and Systemic Study of "Protected Classes" disproportionately discriminated against in the targeted region. The program has commenced a number of federal cases under the Fair Housing Act, with Rob as lead counsel, achieving very favorable settlements for clientele, including a six figure award in a recent case.

To maintain the availability of a professional staff adequate to meet the needs of the targeted clientele, in the early 2000's, with the census-based reduction in SPLAS federal and state funding, Rob launched an affirmative effort to obtain alternative financial resources to maintain program viability. In addition to generating funding for the above initiatives, SPLAS has been effective in developing contracts with local county and community agencies, and has been the recipient of numerous additional ongoing local, state and federal grants. In consequence, the percentage of program revenue resources obtained through program self-generated initiative, which had been minimal pre-2000, and had reached 20% by 2005-06, recorded a total of 51% of all program revenue received in 2012-13. In that eight year period, $6,325,000 was generated.

Primary program funders have repeatedly accorded recognition to Rob's contribution to the work of legal services. The LSC Office of Program Performance "Program Quality Report," conducted in 2010, commented:

He shows forceful leadership in addressing issues of concern to the program such as increasing funding sources and ensuring high quality legal representation…Under his leadership, the program has entered into a number of new and pioneering projects, sought and obtained new grants and engaged in creative litigation for clients… He is recognized by the staff and the community as the voice of the program.

Samuel W. Milkes, Executive Director, Pennsylvania Legal Aid Netword

Samuel W. Milkes is an attorney and serves as Executive Director of the Pennsylvania Legal Aid Network, Inc. (PLAN, Inc.), overseeing and supporting the statewide civil legal aid system. Together, the programs comprising the Pennsylvania Legal Aid Network represent nearly 100,000 clients annually. During his tenure at PLAN, Inc., the program has been successful at playing a major role in the passage of the Access to Justice Act, legislation which provides additional funding for civil legal aid through a small filing fee surcharge and at leveraging other sources of financial support for civil legal aid. Mr. Milkes is has published articles and made formal presentations, advocating for the right to counsel in civil cases, where basic human needs are at stake. Previously, he was a partner in the Carlisle, PA law firm of Jacobsen & Milkes, with a general practice in civil (especially family) and

criminal law. He began his legal career as a staff attorney in legal aid, litigating many individual and impact cases over the years and he then served as Executive Director and Deputy Director of two separate legal aid programs in central Pennsylvania. Through these various experiences, Mr. Milkes has litigated thousands of cases in state and federal courts, including successful appeals to the State Supreme Court and the Third Circuit Court of Appeals. Mr. Milkes is a graduate of Arizona State University and earned his J.D. at Indiana University School of Law at Bloomington, IN.

Robert Racunas, Executive Director, Neighborhood Legal Services Association

Mr. Racunas received his law degree from the University of Pittsburgh in 1971 and has served as the Executive Director of Neighborhood Legal Services Association since 1980. He was an adjunct professor at Duquesne University School of Law for twenty years and was formerly a member of the Pennsylvania Interest on Lawyers Trust Account (IOLTA) Board and a Hearing Committee member of the Disciplinary Board of the Supreme Court of Pennsylvania. Mr. Racunas has been active in the bar associations at the local, state, and national levels. In addition to being a past President of the Allegheny County Bar Association, he served on the Board of Governors, was chair of the Federal Court Section, a member of the Family Law Section, the Opportunities for Minorities in the Law Committee, the Public Service Committee, the Lawyer Referral Committee, the Social Security Committee, and the Western Pennsylvania Federal Bar Association. He is an Allegheny County Bar Foundation Fellow and a member of the Women's Bar Association of Western Pennsylvania. Mr. Racunas is a member of the Pennsylvania Bar Association House of Delegates, a former co-chair of the PBA Legal Services to the Public Committee and a former member of the Government Regulation of the Profession Committee, the Goffman Award Committee, and the PBA Membership Committee. He was appointed by PBA Presidents to four special task forces and is a Pennsylvania Bar Foundation Fellow. Mr. Racunas is a member of the American Bar Association and a former member of the American Bar Association House of Delegates, the ABA Committee on Equal Opportunity in the Legal Profession, Labor and Employment Law Section, the Public Sector and Government Lawyers Division, and is co-chair of the Pennsylvania ABA Membership Committee. He has been honored as a Pitt Varsity Letter Club Awardee of Distinction, Pennsylvania Legal Aid Network Excellence Awardee, Pitt Mon Valley Panther Club Person of the Year, the 2006 University of Pittsburgh School of Law Distinguished Alumni Awardee, and received a 2013 University of Pittsburgh 225th Anniversary Medallion presented by the Chancellor and Law School Dean. He was also a 2012 Pitt Law Academy Lecturer. Other local involvement included his service as chair of the Nottingham Township Zoning Hearing Board and board member of the Mon Yough Mental Health Association.

Cynthia Sheehan, Executive Director, Laurel Legal Services, Inc.

Cynthia has been Executive Director of Laurel Legal Services, Inc. since September of 2002. This is a six-county civil legal services program in Western Pennsylvania. She spent almost her entire legal career in this program after a brief period as Law Clerk in Beaver County, Pennsylvania. She began in 1976 as a Staff Attorney and became the Managing Attorney for four of the six offices in 1980. During her time at Laurel Legal Services, Cynthia was involved in the founding of a domestic violence shelter and rape crisis center, the Alice Paul House in Indiana, Pennsylvania, and helped found a community living program for mental health consumers, I&A Residential Services in

Indiana, Pennsylvania. She currently serves as Treasurer of that Board. She also helped found a program of drop-in centers for mental health consumers, Tri-Centers, Inc. in Indiana, Pennsylvania. She currently serves on the Westmoreland County Stop Violence Against Women Coordinating Team and on the Board of the Community Justice Project, a legal services program which serves poor families and low wage workers of Pennsylvania.

Cynthia obtained her J.D. from the University of Pittsburgh, and also an M.A. from the University of Pittsburgh. She is admitted to practice in the Supreme Court of Pennsylvania, the United States District Court for the Western District of Pennsylvania, the Third Circuit of Court of Appeals and the U.S. Supreme Court.