

Part 1610 - external



LEGAL SERVICES CORPORATION

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April 13, 1998

Deirdre L. Weir, Executive Director
Legal Aid and Defender Association of Detroit
645 Griswold, Suite 2400
Detroit, Michigan 48226-4201

Dear Ms. Weir:

This is a response to your March 11, 1998 letter requesting an opinion on whether Legal Aid and Defender Association of Detroit (LADA) is eligible to apply for an award for financial assistance from the Legal Services Corporation (LSC or Corporation) even though LADA provides representation to individuals in criminal matters pursuant to appointments by federal, state or local courts. Your letter stated that LADA is a 501(c)(3) Michigan Corporation established to provide legal services to the indigent and elderly and that LADA receives funding from a variety of private and public sources.

The fact that LADA provides legal assistance in criminal matters pursuant to appointments from federal, state or local courts would not preclude it from being a qualified applicant for an LSC grant award. Although LSC recipients are prohibited from engaging in or using resources for criminal representation, exceptions exist for separately funded public defender programs and for criminal cases accepted pursuant to court appointments.¹

¹ The authority for these exceptions are found in Section 1010(c) of the LSC Act, 42 U.S.C. §2996i(c), and Section 1610.6(a) and (b) of 45 CFR Part 1610. Section 1610.6 provides that:

... the prohibitions referred to in §§1610.2(a)(4) (Criminal proceedings), (a)(5) (Actions challenging criminal convictions), (b)(7) (Aliens or (b)(11) (Prisoner litigation) of this part will not

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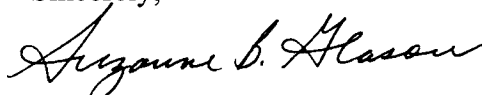
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Section 1610.6 of 45 CFR Part 1610 also provides exceptions for public defender programs and criminal cases accepted pursuant to court appointment from the restriction on prisoner representation in 45 CFR Part 1637 and from the limitations on alien representation found in 45 CFR Part 1626 because the restrictions on alien and prisoner representation apply only to civil representation.

Finally, LSC recipients are subject to many requirements and restrictions that variously apply to a recipient's LSC, private and other public funds.² I suggest that NADA request a copy of the upcoming Request for Proposals (RFP) when it is noticed in the Federal Register.³ It should contain descriptions and listings of the grant restrictions and requirements applicable to LSC grants and may assist you in deciding whether to apply for an LSC grant. You may also call the Corporation's Competition Service Desk at 202-336-8900 if you have any questions about the 1999 competitive grants process.

I hope this adequately responds to your inquiry. Please let me know if I can provide any additional assistance.

Sincerely,



Suzanne B. Glasow
Senior Assistant General Counsel

apply to: (a) A recipient's or subrecipient's separately funded public defender program or project; or (b) Criminal or related cases accepted by a recipient or subrecipient pursuant to a court appointment.

² Based on your description of the structure of LADA's Board of Directors, it is likely that NADA would need to make some changes to its Board in order to qualify for an LSC grant. You may wish to review 45 CFR Part 1607 for the governing body requirements for LSC recipients.

³ It is anticipated that the Notice of Funds Availability for the 1999 competition will be published in the Federal Register this week.