



## Program Letter 14-2

**TO:** All LSC Program Directors

**FROM:** James J. Sandman, President 

**DATE:** May 19, 2014

**SUBJECT:** Alien Eligibility Under 45 C.F.R. Part 1626

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On April 18, 2014, LSC published a final rule revising 45 C.F.R. Part 1626, “Restrictions on Legal Assistance to Aliens.” The rule became effective on May 19, 2014. Revised Part 1626 was published without the Appendix, which is being replaced by this Program Letter and an accompanying chart describing the categories of aliens eligible for legal assistance from LSC recipients and containing a non-exhaustive list of examples of acceptable documentation showing eligibility under Part 1626. These documents should be read together with Part 1626 in making eligibility determinations.

### **Documentation**

The documents identified as acceptable to establish eligibility fall into one of two categories: 1) documents regarding the immigration status of an alien, or 2) documents providing evidence that the alien has experienced qualifying abuse or otherwise meets the requirements of 45 C.F.R. § 1626.4 regarding the Violence Against Women Act (VAWA) and other anti-abuse statutes.

### **Special Considerations**

Victims of trafficking are covered by different provisions of 45 C.F.R. § 1626.4, depending on the nature of the trafficking activity. Recipients should determine whether an alien is a victim of trafficking under VAWA or section 101(a)(15)(U) of the Immigration and Nationality Act, or a victim of severe forms of trafficking under the Trafficking Victims Protection Act, 22 U.S.C. § 7101 *et seq.* The facts of an alien’s situation may indicate that the alien is eligible for assistance under one or more of these statutes.

Eligibility for assistance based on qualifying for a U-visa or being a victim of severe forms of trafficking requires consideration of other statutory factors in addition to the qualifying crime. See 8 U.S.C. § 1101(a)(15)(U); 22 U.S.C. § 7105(b)(1)(C). Recipients must document that an alien meets all relevant statutory factors.

Individuals who are applying for assistance as spouses of U.S. citizens who have filed an application for adjustment of status must provide evidence of a valid marriage. This requirement

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applies to all applicant spouses, including spouses in same-sex marriages. Consistent with the positions taken by the U.S. Department of Justice and the U.S. Department of Homeland Security following the Supreme Court's decision in *United States v. Windsor*, LSC will use the law of the place where the marriage was conducted, rather than the law of the state in which legal assistance is sought, to determine whether the marriage is legally valid for purposes of eligibility for LSC-funded legal assistance.

**Additional Resources**

If you have any questions or concerns regarding this Program Letter or for further guidance, please contact LSC General Counsel Ronald S. Flagg at flaggr@lsc.gov. Additional information regarding the documentation contained in the chart can be found at the U.S. Citizenship and Immigration Service website (<http://www.uscis.gov>) and at the Anti-Trafficking in Persons Division of the Office of Refugee Resettlement within the Department of Health and Human Services website (<http://www.acf.hhs.gov/programs/orr/programs/anti-trafficking>).