



**External Opinion 2000-1009**

March 13, 2000

Mark D. Brailey, Executive Director  
Legal Services Corporation of Virginia  
700 East Main Street, Suite 1504  
Richmond, VA 23219

Re: Use of LSC Funds as Matching Funds for Grants from TOP.

Dear Mr. Brailey:

As per our discussion this afternoon, you have informed me that the Legal Services Corporation of Virginia is coordinating a statewide intake and referral system for the twelve Virginia recipients of funding from the Legal Services Corporation ("LSC"). As part of developing this system, you are submitting an application for the Department of Commerce Technology Assistance Program ("TOP"). TOP requires that grant recipients provide matching funding. You have asked if LSC funds, as provided by the Virginia LSC recipients, can be used for matching TOP grants. Yes, they can.

For purposes of matching federal grants, LSC funds are considered non-Federal funds. Nevertheless, 45 C.F.R. Section 1630.3(a)(8) provides that LSC funds may not be used "to meet cost sharing or matching requirements of any other federally financed program, unless the agency whose funds are being matched determines in writing that Corporation funds may be used for federal matching purposes." (Emphasis added).

The TOP Notice of Availability of Funds instructs that "[i]f you plan to use funds from a federal agency, you should contact the federal agency that administers the funds in question and obtain documentation from that agency's Office of General Counsel to support the use of federal funds for matching purposes." 65 Fed. Reg. 682 (Jan. 5, 2000). Although LSC is not a federal agency, it acts like a federal agency for purposes of supplying potential matching funds. It is consistent with the intent of both the LSC regulations and the TOP Notice to use LSC funds as matching funds for a TOP grant. Absent any objection from TOP or the Department of Commerce, the language of the TOP Notice meets the requirements of section 1630.3(a)(8).

Glenn Rawdon, Program Counsel for Field Technology, has been working with TOP on this issue. Mr. Rawdon has a more complete analysis of this question if needed.

Very truly yours,

Mark Freedman, Staff Attorney  
Office of Legal Affairs

mfreedman@lsc.gov  
202.336.8829