

Robert J. Grey, Jr.  
Member of the Board of Directors  
Legal Services Corporation

Testimony Before the  
Subcommittee on Commerce, Justice, Science, and Related Agencies  
Committee on Appropriations  
House of Representatives

April 5, 2011

Chairman Wolf, Congressman Fattah, members of the Subcommittee, I am Robert Grey, a member of the Board of Directors of the Legal Services Corporation and Chairman of the Finance Committee of the Board. I was appointed by President Barack Obama to this position in August 2009 and confirmed by the Senate in March 2010. I am a proud son of the Commonwealth of Virginia, a graduate of Washington and Lee School of Law and a partner with Hunton & Williams LLP in Richmond. I was President of the American Bar Association from 2004-2005 and remain very active in the ABA.

I want to begin by thanking you, Mr. Chairman, for holding this important hearing today. The Legal Services Corporation is on the front lines of ensuring equal justice under law in this country and I consider my service to the Corporation and the nation a great honor. I bring you greetings today from Chairman John G. Levi and our entire bipartisan Board. Under the leadership of John Levi and Vice Chair Martha Minow, this Board is working as a team to do the right thing for our nation. We listen to and respect one another's viewpoints about how best to fulfill LSC's mission of providing civil legal assistance to indigent clients.

Let me also thank you, Mr. Chairman, for your long-time support of the mission of the Legal Services Corporation. As a former president of the ABA, an advocate of many years for LSC, and a member of the Bar of the Commonwealth, I have watched you support this Corporation through some very stormy waters of the past. I feel that our ability to have a discussion today about the budget of LSC is in large part a result of your loyalty to the mission of equal justice for all Americans and your support for the survival of this program in the late 1990's. I thank you.

Jim Sandman has stated the case for the need. Let me associate myself with everything he has told you about the increasing importance of federal funding for legal aid. What I would like to speak to is our Board's commitment to be vigilant stewards of the federal appropriations that have been entrusted to us for distribution. I would also like to make an announcement today regarding our commitment to work with the private bar to leverage those federal resources and develop even more resources to assist a growing pool of eligible clients.

## **Stewardship of the Federal Appropriation**

### *Government Accountability Office Reports*

As a testament to this Board's resolve to ensure the efficiency and effectiveness of the governance and management of the Corporation, I am pleased to be able to report today that all 17 of the recommendations of GAO's 2007 reports on governance and management have now been implemented by the Corporation. GAO has certified the implementation and I have attached that certification to this statement. (Attachment 1) In addition, 13 of the 17 recommendations contained in the June 2010 report "Improvements Needed in Controls Over Grant Awards and Grantee Program Effectiveness" have already been implemented and the documentation has been provided to GAO. Of the four recommendations not yet completed, three will be addressed as a part of our new Board's strategic planning process now underway. Our Board will keep the Subcommittee fully and currently informed of progress on the completion of all recommendations.

### *Special Task Force on Fiscal Oversight*

Shortly after the organization of our new Board, two tasks were considered paramount. First, we needed to recruit and hire a new CEO for the corporation, someone with the management background and skills to move LSC forward and ensure an efficient and effective organization. We have accomplished that goal. Second, we needed to determine whether the structure, procedures, and measurements were in place to ensure the best fiscal oversight of our grantees. About a month after the first six Board nominees took office, a high-profile case became public—one that brought into question whether we were doing all that we possibly could as a corporation to ensure fiscal integrity of our grantees.

Board Chairman John Levi, who had already been discussing the idea of a Special Task Force on Fiscal Oversight, moved quickly to create the Task Force to study how fiscal oversight of grantees is currently performed by the Corporation and to report to the Board its findings and recommendations. John also personally recruited and appointed the membership, and asked Victor B. Maddox, the Chairman of our Audit Committee, and me to co-chair the effort.

The Task Force is comprised of the two of us and persons from outside the Corporation and the Board. It includes three senior executives of Fortune 500 corporations, six leaders of national foundations, two experienced accounting executives, and two former inspectors general. Mr. Chairman, it is an impressive group of individuals, and I have included the membership as an attachment to my testimony. (Attachment 2)

We have begun our work and are in the process of engaging a consultant to assist in the organization of our task and the writing of our final report to the Board. We are hoping to have a draft report and recommendations completed by July.

## **Partnership with the Bar – Pro Bono as a Vital Resource**

Mr. Chairman, I know that the use of pro bono resources to supplement the resources of civil legal aid is something you are very interested in and have championed on this subcommittee. The Board and management of the Corporation thank you for your interest and advocacy for this vital resource for the provision of access to the courts in the United States. Your outreach to LSC and to the American Bar Association early in this budget year was very valuable and a clear indication of your support for our mission.

I am fortunate to be a partner at Hunton & Williams, which has long supported pro bono and opened neighborhood offices in Richmond's Church Hill, in Charlottesville and in Atlanta. I've learned that pro bono can be a very effective tool to help ensure access to justice.

LSC shares your interest in and commitment to the effective, strategic, and creative engagement of private pro bono attorneys and attorneys providing legal services to eligible clients at reduced fees in the delivery system of the Legal Services Corporation. That engagement has been an important part of our delivery system for many years. We are fully committed to encouraging and supporting private attorney involvement with LSC-funded programs to expand the availability of civil legal assistance to eligible clients. LSC programs are currently using a variety of private attorney delivery models and cooperative relationships with the organized bar to serve clients. Private attorneys are working with programs in urban and rural communities to provide legal assistance to individual clients and to offer community legal education to groups of low-income individuals. They are conducting intake interviews and staffing telephone hotlines and clinics. They are training program attorneys in specialty areas of the law, performing legal research, and assisting in the drafting and revising of manuals and other publications. In some instances, they are co-counseling with program attorneys.

As you know, Mr. Chairman, the Legal Services Corporation requires that 12.5 percent of each grant be devoted to support of private attorney involvement within our local programs. This funding goes to recruitment of private attorneys, training, research, technical assistance, and other "back office" support to ensure that their volunteer participation is practical, efficient and effective. The availability of substantive training and support from our local programs is a key factor in obtaining and retaining volunteers and in generating high-quality pro bono work. Corporate attorneys, government attorneys, real estate practitioners, and others may wish to help, but without an intake, screening, training, research, and deployment infrastructure to support them, they are unlikely to step forward.

When resources are available, the screening of cases is an important function to ensure the best outcomes in pro bono representations. LSC-funded programs often develop the facts of each referral so as to allow participating volunteer and Judicare attorneys to quickly assess the legal issues presented. This may entail collecting necessary documentation and compiling the administrative record.

LSC has placed a great deal of emphasis on private attorney involvement in recent years and this is an area where the efforts have clearly paid off. In each of the last three years, this Subcommittee increased the funding of the LSC grants program. Over those last three years, the number of cases closed by pro bono counsel increased by 14,000 and went from 10 percent of all cases closed to the current level of 12 percent. Increases in funding enable our local programs to provide the support necessary to ensure strong volunteer participation.

As Esther Lardent, President and CEO of the Pro Bono Institute, and one of the key leaders in this field, recently wrote, “The reality is that effective pro bono service by attorneys in private practice is possible only if these attorneys can rely upon the expertise and consistent community presence of LSC programs. Without a strong core of full-time advocates, pro bono simply does not work.”

She went on to add, “Without that critical infrastructure that LSC provides — to screen and place matters, train and mentor volunteer attorneys taking on matters outside their areas of expertise, and identify emerging legal problems and solutions — pro bono, despite the willingness of volunteer attorneys, will inevitably decline.”

The legal delivery system in the United States has evolved over the last 25 years. Changes in client demographics and needs, technology, and available resources necessitate that we revisit and reevaluate the ways in which private attorneys are currently integrated into LSC’s legal services delivery structure. We need to reassess whether there are more effective and strategic methods of involving private, corporate and government attorneys that will result in increased availability of legal services to eligible clients. While service area needs and resources vary, we all would benefit from assessing how those resources that do exist can be used effectively.

We must ask ourselves:

- Are we using large law firms, corporate, and government attorneys (who in many settings can do pro bono work) to their full advantage?
- Have we gotten the most out of attorney and paralegal rotation programs that place firm or corporate personnel in legal services programs for a defined period of time?
- Have we used technology to its full advantage to mitigate traditional geographic barriers to pro bono resources?
- Have we done enough to encourage the states’ highest courts and bar associations to promote pro bono by implementing rules changes to facilitate pro bono services?
- Are we making the best use of retired attorneys, whose experience may be of assistance?

- Is there more that we can do to involve law schools and law students in the delivery of civil legal assistance?
- Have we taken full advantage of the recently formed Access to Justice entities in our states?

To answer these and other questions, and in furtherance of your call, Mr. Chairman, to expand pro bono legal services for low-income Americans, we are today announcing the formation of the Legal Services Corporation Pro Bono Task Force. John Levi has been authorized by the Board to form the Task Force and has named Board members Martha Minow and Harry J.F. Korrell III as the co-chairs. John is in the process of recruiting a blue-ribbon group, and will announce members at the Board's April meeting.

The Task Force will have a membership that can provide guidance on pro bono in urban and rural communities, can help us better understand what steps to recommend to LSC-funded programs, can identify the most effective delivery models, can help us improve our outreach to the organized bar, the business community, national and state bar associations and others, and can position the Corporation to more consistently foster recognition of the importance of pro bono.

We hope that the task force can address two particular challenges that we all face in our pro bono plans. First of all, I know that the Chairman is aware of the limits of pro bono in states just like ours. As you can see from this active attorney address distribution provided by the Virginia State Bar, the vast majority of attorneys in the Commonwealth live in the cities and metropolitan areas of Richmond, Norfolk, and Northern Virginia. (Attachment 3) The poverty population, however, is widespread and encompasses many of Virginia's rural areas, such as the counties in the southwest region. It is very difficult to serve the poverty population through pro bono service in areas where there are few lawyers.

Not just in our home state, but in broad sections of this country, there are just not enough attorneys to do this work pro bono. In the state of Georgia, 69 percent of the state's lawyers are in the five-county Atlanta Metro area, which has only 28 percent of the state's poverty population. (Attachment 4) The remaining 154 counties have 31 percent of the lawyers and 72 percent of the poverty population. Six counties in the state have no lawyers, and 29 counties have from 1 to 5 lawyers. Forty percent of the counties have 10 or fewer active lawyers (and this count includes judges, prosecutors, public defenders, and others not generally available for civil legal work).

Secondly, the most robust pro bono programs, and the ones that get the most publicity, are those of the nation's large law firms. The lawyers in those firms are the ones with the encouragement, opportunity, and income to do pro bono. But only 15 percent of the lawyers in the United States work in the 250 largest firms (those with more than 174 lawyers). Many solo practitioners and small firm attorneys in smaller cities and rural areas do not have the time, the financial resources, the practice expertise, or the necessary

support to do pro bono work. And the smaller the community, the more likely it is that conflicts of interest prevent attorneys from being able to assist pro bono clients. As Esther Lardent points out, “Conflicts of interest have severely limited volunteer service in foreclosure matters and are often endemic in smaller cities and rural areas.” When a local firm represents the bank or does the title work in a small town, they are not going to be able to help a low-income homeowner avoid an unnecessary foreclosure.

Mr. Chairman, in light of these challenges, John Levi has told me that he does not want a task force that plows old ground. We want to encourage new thinking and to develop innovative practices. Our job is to find ways to train private lawyers for legal aid work, to equip them with the right information, and to encourage them to experience life as a volunteer attorney. We all believe they will find it immensely rewarding. I believe we can do more for pro bono, and that is our goal.

Thank you, Mr. Chairman, I’d be happy to answer any questions.



## Legal Services Corporation: Governance and Accountability Practices Need to Be Modernized and Strengthened

GAO-07-993 August 15, 2007

[Highlights Page \(PDF\)](#) [Full Report \(PDF, 81 pages\)](#) [Accessible Text Recommendations \(HTML\)](#)

### Summary

The Legal Services Corporation (LSC) was federally created as a private nonprofit corporation to support legal assistance for low-income people to resolve their civil matters and relies heavily on federal appropriations. Due to its unique status, its governance and accountability requirements differ from those of federal entities and nonprofits. This report responds to a congressional request that GAO review LSC board oversight of LSC's operations and whether LSC has sufficient governance and accountability. GAO's report objectives are to (1) compare LSC's framework for corporate governance and accountability to others', (2) evaluate LSC's governance practices, and (3) evaluate LSC's internal control and financial reporting practices. We reviewed the LSC Act, legislative history, relevant standards and requirements, and LSC documentation and accountability requirements and interviewed board and staff.

Although LSC has stronger federal accountability requirements than many nonprofit corporations, it is subject to governance and accountability requirements that are weaker than those of independent federal agencies and U.S. government corporations. Congress issued LSC's federal charter over 30 years ago. Established with governance and accountability requirements as they existed at the time, LSC has not kept up with evolving reforms aimed at strengthening internal control over an organization's financial reporting process and systems. Rigorous controls are important for the heavily federally funded LSC. During fiscal year 2007, LSC is responsible for the safeguarding and stewardship of \$348.6 million of taxpayer dollars. Although no single set of practices exists for both private and public entities, current accepted practices of federal agencies, government corporations, and nonprofit corporations offer models for strengthening LSC's governance and accountability, including effective board oversight of management; its performance; and its use of federal funds and resources. The board members demonstrated active involvement in LSC through their regular board meeting attendance and participation in LSC oversight. Although LSC's Board of Directors was established with provisions in law that may have supported effective operation over 30 years ago, its practices fall short of modern board practices. The LSC board generally provides each new member an informal orientation to LSC and the board, but it does not have consistent, formal orientation and ongoing training with updates on new developments in governance and accountability standards and practice. The current board has four committees, but none are specifically targeted at providing critical audit, ethics, or compensation functions, which are important governance mechanisms commonly used in corporate governance structures. Because it has not taken advantage of opportunities to incorporate such practices, LSC's Board of Directors is at risk of not being able to fulfill its role of effective governance and oversight. A properly implemented governance and accountability structure may have prevented recent incidents of compensation rates in excess of statutory caps, questionable expenditures, and potential conflicts of interest. LSC also has not kept up with current management practices. Of particular importance are key processes in risk assessment, internal control, and financial reporting. Management has not formally assessed the risks to the safeguarding of its assets and maintaining the effectiveness and efficiency of its operation, nor has it implemented internal controls or other risk mitigation policies. LSC is also at increased risk that conflicts of interest will occur and not be identified because senior management has not established comprehensive policies or procedures regarding ethical issues that are aimed at identifying potential conflicts and taking appropriate actions to prevent them. Finally, management has not performed its own assessment or analysis of accounting standards to determine the most appropriate standards for LSC to follow.

### Recommendations

Our recommendations from this work are listed below with a Contact for more information. Status will change from "In process" to "Open," "Closed - implemented," or "Closed - not implemented" based on our follow up work.

Director: Susan Ragland

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## Matters for Congressional Consideration

**Recommendation:** Since the LSC Act was enacted in 1974 and last comprehensively amended and reauthorized in 1977, new laws governing federal agencies, U.S. government corporations, and public companies have been enacted to strengthen governance and accountability requirements. Therefore, Congress may wish to consider whether LSC could benefit from additional legislatively mandated governance and accountability requirements, such as financial reporting and internal control requirements, modeled after what has worked successfully at federal agencies or U.S. government corporations. There are different options available to Congress for such a mandate. Congress may wish to maintain LSC's current organizational structure as a federally chartered and federally funded, private, nonmembership, and tax-exempt D.C. nonprofit corporation and enact permanent legislation to require LSC to implement additional governance and accountability requirements.

**Status:** Open

**Comments:** In recent years, we have had conversations with congressional staff regarding the need for Congressional action on this matter. However, as of December 2010, while still considering action in this area, no specific action has been taken as yet.

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**Recommendation:** Since the LSC Act was enacted in 1974 and last comprehensively amended and reauthorized in 1977, new laws governing federal agencies, U.S. government corporations, and public companies have been enacted to strengthen governance and accountability requirements. Therefore, Congress may wish to consider whether LSC could benefit from additional legislatively mandated governance and accountability requirements, such as financial reporting and internal control requirements, modeled after what has worked successfully at federal agencies or U.S. government corporations. There are different options available to Congress for such a mandate. Congress may wish to enact legislation to convert LSC to a federal entity (such as a U.S. government corporation subject to the Government Corporation Control Act) or an independent federal agency that is required to follow the same laws and regulations as executive branch agencies. In the statute establishing LSC as a federal entity, Congress could specifically exempt LSC from certain requirements that would otherwise apply to that type of federal entity in order to further special policy considerations particular to LSC.

**Status:** Open

**Comments:** In recent years we have had conversation with Congressional staff regarding this matter. However, as of December 2010, while action is under consideration, no specific action has been taken as yet.

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## Recommendations for Executive Action

**Recommendation:** In order to improve and modernize the governance processes and structure of LSC, the LSC Board of Directors should establish and implement a comprehensive orientation program for new board members to include key topics such as fiduciary duties, Internal Revenue Service requirements, and interpretation of the financial statements.

**Agency Affected:** Legal Services Corporation

**Status:** Closed - implemented

**Comments:** In a 2007 review of Legal Services Corporation (LSC) governance and accountability, GAO found that new LSC board member orientation did not include key information on oversight and fiduciary responsibilities, including Washington, D.C. law governing nonprofits; the Internal Revenue Service (IRS) regulatory requirements for nonprofit organizations; interpreting LSC's financial statements; managing sensitive documents; FOIA requirements; or travel expenditure limitations. New board member training is a basic tool used by well-functioning boards. Further, without comprehensive orientation, LSC board members may not be adequately prepared to effectively fulfill their oversight and governance responsibilities. GAO recommended that the Board establish and implement a comprehensive orientation program for new board members to include key topics such as fiduciary duties, IRS requirements, and interpretation of the financial statements. Over the course of 2008 and 2009, LSC's Governance and Performance Review Committee developed a comprehensive curriculum for new member orientation. The orientation topics address the following: History of LSC; LSC Structure and Staff; Board Roles and Responsibilities; Board Meetings; Budgets; Regulatory Process; Oversight; Government Accountability



Office Reports; Litigation Report; Job Descriptions; Recent Activities of LSC, and other topics, such as LSC IRS 990 Form. Orientation materials included the IRS Form 990 Return of Organization Exempt from Income Tax; a Budget and Administration presentation by the Chief Administration Officer, which included an overview of the LSC Strategic Plan; and an overview of the Congressional Appropriations Process, LSC Budget Cycle, and LSC financial information, such as income and expenditures. Other orientation materials included the Guidelines for Adoption, Review and Modification of the Consolidated Operating Budget of the Legal Services Corporation, Management's Recommendations for LSC's FY 2011 Budget Request, and an in-depth outline for orientation of Board Nominees on Administrative Operations. New board member orientation sessions in December 2009 and January and November 2010, provided members an in-person orientation session by the President of LSC, the Corporate Secretary, the Director of Government Relations and Public Affairs, the Chief Administrative Officer, the Comptroller/Treasurer, the Vice President for Programs and Compliance, and the Office of Inspector General. Based on the establishment and implementation of a comprehensive Board orientation, LSC's governance structure should be enhanced through increased board knowledge of current, relevant governance and accountability practices. As a result, the Board will be better able to address issues as they arise and more effectively govern LSC.

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**Recommendation:** In order to improve and modernize the governance processes and structure of LSC, the LSC Board of Directors should develop a plan for providing a regular training program for board members that includes providing updates or changes in LSC's operating environment and relevant governance and accountability practices.

**Agency Affected:** Legal Services Corporation

**Status:** Closed - implemented

**Comments:** In a 2007 review of Legal Services Corporation (LSC) governance and accountability, GAO found that LSC's board did not have an ongoing (e.g., annual) training program for its board members. In general, it is a good management practice for such governing boards to stay current with changes in governance practices, its regulatory environment, and key management practices and requirements in such areas as risk assessment and mitigation, internal controls, and financial reporting. One way to achieve this objective is through requiring board members to receive annual training on current best practices in these areas. GAO recommended that LSC develop a plan for providing periodic training to board members that included providing updates or changes in LSC's operating environment and relevant governance and accountability practices. In March 2010, LSC issued an LSC Board of Directors Training Program document. As a result, if the board training is implemented as planned in the Board of Directors Training Program, LSC's governance structure will be enhanced through increased board knowledge of current, relevant governance and accountability practices.

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**Recommendation:** In order to improve and modernize the governance processes and structure of LSC, the LSC Board of Directors should establish an audit committee function to provide oversight to LSC's financial reporting and audit processes either through creating a separate audit committee or by rewriting the charter of its finance committee.

**Agency Affected:** Legal Services Corporation

**Status:** Closed - implemented

**Comments:** As part of its 2007 review of the Legal Services Corporation (LSC), GAO recommended that the LSC establish an audit committee function to provide oversight to LSC's financial reporting and audit processes either through creating a separate audit committee or by rewriting the charter of its finance committee. On March 24, 2008, the LSC Board of Directors established an audit committee and adopted an audit committee charter. Under this charter, the audit committee is charged with assisting the Board in fulfilling its responsibility to ensure that the Corporation's assets are properly safeguarded; to oversee the quality and integrity of the Corporation's accounting, auditing, and reporting practices. LSC's actions to establish an audit committee, if fully and effectively implemented, should enable LSC to more effectively oversee its financial reporting and audit processes.

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**Recommendation:** In order to improve and modernize the governance processes and structure of LSC, the LSC Board of Directors should establish a compensation committee function to oversee compensation matters involving LSC officers and overall compensation structure either through creating a separate compensation committee or by rewriting the charter of its annual performance review committee.

**Agency Affected:** Legal Services Corporation**Status:** Closed - implemented

**Comments:** In our 2007 review of Legal Services Corporation (LSC) governance and accountability, GAO found that LSC's board does not have a compensation committee to oversee LSC's overall compensation structure, including the compensation provided to LSC's officers. Such a compensation committee is an accepted practice for nonprofit corporations and required for public companies listed on the New York Stock Exchange. GAO recommended that the LSC establish a function to oversee its overall compensation structure, including compensation matters involving LSC officers, either through creating a separate compensation committee or by rewriting the charter of its performance review committee to include such responsibilities. On October 31, 2009, the Governance Performance Review Committee passed a resolution augmenting its charter to provide for annually reviewing LSC's compensation plan and LSC officers compensation. If these augmented committee responsibilities are fully and effectively implemented, LSC's governance structure will be enhanced through increased oversight of compensation across LSC.

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**Recommendation:** In order to improve and modernize the governance processes and structure of LSC, the LSC Board of Directors should establish charters for the Board of Directors and all existing and any newly developed committees to clearly establish committees' purposes, duties, and responsibilities.

**Agency Affected:** Legal Services Corporation**Status:** Closed - implemented

**Comments:** In 2007, GAO reported the Legal Services Corporation (LSC) board and its committees did not have charters that established their purpose and responsibilities. A charter defines committee membership, and members' oversight duties and responsibilities. GAO found that this condition resulted from the LSC not keeping up with current practices for non profit corporations. LSC issued a board resolution in 1995 that provided descriptions of the committees, but the resolution does not contain the elements of a charter and the resolution has not been updated since it was issued in 1995 for three of the four committees. The fourth committee was established in 2003. GAO recommended that the LSC establish charters for its newly developed committees to clearly establish their purposes, duties and responsibilities. In 2008, the LSC Board established charters for its Audit, Finance, Operations and Regulations, Provision for the Delivery of Legal Services, and Governance and Performance Review Committees. With the establishment of these charters describing committee duties and responsibilities, LSC has a foundation for establishing effective accountability and has reduced the risk that LSC committees and their members are performing duties beyond the scope of their respective charters.

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**Recommendation:** In order to improve and modernize the governance processes and structure of LSC, the LSC Board of Directors should implement a periodic self-assessment of the board's, the committees', and each individual member's performance for purposes of evaluating whether improvements can be made to the board's structure and processes.

**Agency Affected:** Legal Services Corporation**Status:** Closed - implemented

**Comments:** In a 2007 review of Legal Services Corporation (LSC) governance and accountability, GAO found that the LSC board did not assess the performance of the overall board, its committees, or the individual board members. Such periodic assessments assist the board in determining whether it is meeting its intended goals and fulfilling its duties, and enables the board to identify areas for improvement in the board's operating procedures, its committee structure, and its governance practices. Board assessments are a common practice for nonprofit corporation boards and a NYSE listing requirement for audit committees of public companies. An assessment can include (1) an overall self-assessment of the entire board, (2) an assessment of the separate board committees, (3) individual board member assessments, or (4) all three. GAO recommended that LSC's Board of Directors implement periodic self-assessments of the board's, the committee's, and individual member's performance for purposes of evaluating whether improvements can be made to the board's structure and processes. In response to our recommendation, LSC implemented processes for Board, committee, and individual board member assessments. LSC's Board approved the process on April 7, 2010. According to LSC documentation, the Board Self-Evaluation is designed to give the Board an opportunity to assess its group performance in meeting annual goals and to set new goals for the upcoming program year and to serve as the basis for a planning discussion at the annual meeting of the Board. The committee self-evaluation is designed to give each committee's members an

annual opportunity to provide feedback to committee chairs and for all committee members to assess the performance of the committee against a common set of protocols. According to LSC management, the first committee self-evaluation was conducted in 2010 and provided feedback on areas of strengths, areas needing improvement, and committee goals for the year for each committee to use during a January discussion. Board members' individual self evaluations were implemented in 2009. By implementing such comprehensive board assessments, committee assessments and individual board member assessments, LSC has enhanced its governance structure. Specifically, by providing regular, ongoing feedback and awareness of areas needing improvement, the Board will be better able to address issues as they arise and, thus, more effectively govern LSC.

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**Recommendation:** In order to improve and modernize the governance processes and structure of LSC, the LSC Board of Directors should develop and implement procedures to periodically evaluate key management processes, including at a minimum, processes for risk assessment and mitigation, internal control, and financial reporting.

**Agency Affected:** Legal Services Corporation

**Status:** Closed - implemented

**Comments:** In a 2007 review of Legal Services Corporation (LSC) governance and accountability, GAO reported that LSC management relies on a cycle memorandum prepared by LSC's external auditor as management's assessment of internal controls. The cycle memorandum contained process descriptions but did not identify internal controls, their objectives, or management's assertions (completeness, rights and obligations, valuation, existence, and presentation and disclosure) that the controls are intended to address. Instead, LSC's management conducted ongoing, informal assessments of selected financial processes on an ad hoc basis. However, these management assessments were not utilized as part of a comprehensive internal control evaluation. Without comprehensive internal control assessment and monitoring, LSC is at risk that it will not prevent or promptly detect any internal control failures, including unauthorized or improper use of federal funds or violations of laws or regulations in its operations. GAO recommended that the Board develop and implement procedures to periodically evaluate key management processes, including at a minimum, processes for risk assessment and mitigation, internal control, and financial reporting. In 2010, LSC developed and implemented new procedures by first identifying its six major management processes and priorities for evaluation of the major processes. Specifically, LSC in 2010 evaluated (1) grant awards and (2) internal financial controls and plans to evaluate in 2011, accuracy of grantee data. For example, LSC's Office of Information Management developed a checklist for Office of Program Performance to verify the accuracy of information included in grant award letters. In July 2010, LSC management evaluated the grant award process and briefed the LSC Audit Committee on September 9, 2010 on the results of the identification of several key internal controls in the grant awards process. For example, LSC documented internal controls related to grantee payments. In addition, in September 2010, LSC also hired an independent risk assessment consultant to perform an assessment of LSC's internal controls within the grant-making process. LSC's actions demonstrate that the Board has developed and implemented procedures to periodically evaluate key management processes. These new procedures help strengthen LSC's internal control environment and reduces the risk that internal control failures, including unauthorized or improper use of federal funds or violations of laws or regulations, will occur and not be detected.

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**Recommendation:** In order to improve and modernize the governance processes and structure of LSC, the LSC Board of Directors should establish a shorter time frame (e.g., 60 days) for issuing LSC's audited financial statements.

**Agency Affected:** Legal Services Corporation

**Status:** Closed - implemented

**Comments:** In its 2007 review of Legal Services Corporation (LSC) governance and accountability, GAO found that for the previous 5 years, LSC issued its audited financial statements in March or later, which is 6 months or more after its year-end of September 30th. GAO recommended that LSC establish a shorter time frame (e.g., 60 days) for issuing its audited financial statements. LSC's Board of Directors instructed LSC's Office of Inspector General (OIG) to deliver audited financial statements for the year ending September 30, 2007 earlier than the financial statements had been in previous years. Subsequently, the audited financial statements for the year ending September 30, 2007 were issued on January 7, 2008 and the September 30, 2008 audited financial statements were issued on January 28, 2009. Further, to ensure the timeliness on the issuance of the financial statements for the year ending September 30, 2009, LSC established a completion date of December 15, 2009 for LSC's auditor. In addition, both the OIG and LSC's Office of Financial & Administrative Services (OFAS) have committed to monitoring the progress of the financial statements and ensuring that the process is completed on time. As a result of LSC's guidance requiring accelerated completion dates and oversight, LSC reduced the time

frame for issuing its annual audited financial statements and thereby helped to increase the relevancy of the financial information.

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**Recommendation:** In order to improve and modernize key management processes at LSC, the president and executive committee should conduct and document a risk assessment and implement a corresponding risk management program as part of a comprehensive evaluation of internal control.

**Agency Affected:** Legal Services Corporation

**Status:** Closed - implemented

**Comments:** In its 2007 review of the Legal Services Corporation (LSC), GAO found that Management had not established risk mitigation policies. According to the Standards for Internal Control in the Federal Government, internal control should provide for an assessment of the risks the agency faces from both external and internal sources. GAO recommended that LSC develop and implement a risk management program as part of a comprehensive evaluation of internal control. Subsequently, on January 31, 2009, LSC implemented a risk assessment and risk management plan in a document entitled "LSC Risk Management Program". Our review of LSC's Risk Management Plan showed it included appropriate risk management roles and responsibilities for both the LSC audit committee and LSC executives. Further, LSC held an internal control risk assessment session with its board on December 11, 2008. With LSC's actions to establish a comprehensive internal control risk assessment program, LSC should have greater assurance that it has appropriate, risk-based internal controls in place when its internal control reviews are implemented.

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**Recommendation:** In order to improve and modernize key management processes at LSC, the president and executive committee should, with the board's oversight, evaluate and document relevant requirements of the Sarbanes-Oxley Act of 2002 and practices of the New York Stock Exchange and the American Bar Association that are used to establish a comprehensive code of conduct, including ethics and conflict-of-interest policies and procedures for employees and officers of the corporation.

**Agency Affected:** Legal Services Corporation

**Status:** Closed - implemented

**Comments:** In an August 2007 review of Legal Services Corporation (LSC) governance and accountability, GAO found that LSC did not have policies and procedures establishing a code of conduct for its employees concerning conflict-of-interest or ethics issues. Lacking such policies and procedures, the LSC Office of the Inspector General (OIG) found several instances of non-ethical conduct including using LSC funds to pay for non-LSC related travel expenses for its President. The LSC OIG also reported that LSC had hired special councils responsible for providing management with advice on policy who were also employees of organizations that receive LSC grant money, causing potential conflicts of interest. GAO recommended that LSC, with the oversight of LSC's board, evaluate ethics and conflict-of-interest requirements of the Sarbanes-Oxley Act of 2002 and related policies and procedures of the New York Stock Exchange (NYSE) and American Bar Association (ABA) to establish a comprehensive code of conduct for LSC employees, including policies and procedures for LSC's corporate officers. In response, LSC formed a task force to study corporate compliance programs that considered Sarbanes-Oxley requirements as well as the practices of NYSE and the ABA in the formation of a proposed code of conduct policy and procedures for the agency and presented a proposal to LSC's Operations and Regulations Committee. After further consideration and refinements by LSC's Operations and Regulations Committee in October 2007 and January 2008, the LSC board adopted a code of conduct for LSC at its March 2008 Board Meeting. LSC's final policies and procedures, the Code of Ethics and Conduct, includes a conflict-of-interest policy and applies to all LSC Directors, officers and employees. Based on the actions taken to date by LSC, the agency now has greater assurance that its personnel will be aware of their responsibilities in the area of ethics and conflicts of interest and that policies and procedures are in place to identify and avoid future ethics violations and conflicts of interest.

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**Recommendation:** In order to improve and modernize key management processes at LSC, the president and executive committee should establish a comprehensive and effective comprehensive continuity of operations program, including conducting a simulation to test the established program.

**Agency Affected:** Legal Services Corporation

**Status:** Closed - implemented

**Comments:** In a fiscal year 2007 review of the Legal Services Corporation (LSC), GAO found that although LSC does have a Comprehensive Continuity Of Operations Plan (COOP), the plan was not complete or comprehensive. For example, LSC's COOP did not provide information on essential functions for each office. In addition, GAO found that LSC had not conducted a comprehensive assessment to identify risks or identify acceptable levels of risk associated with LSC's current COOP. GAO recommended that LSC develop a comprehensive COOP and risk assessment and management program. Subsequently, in March 2008, LSC issued a two volume Continuity of Operations Plan. LSC's COOP consists of the Emergency Response Plan and the Continuity of Operations Plan. Also, in January of 2009, LSC established a Risk Management Program which considered the risk posed by threats to continuity of operations. The LSC COOP primarily relies on LSC personnel relocating from their headquarters offices to their residences to continue operations through telework. Such action is identified as a desired practice in GAO's CONTINUITY OF OPERATIONS: Selected Agencies Could Improve Planning for Use of Alternate Facilities and Telework during Disruptions (GAO 06-713). Further LSC's COOP substantially complies with the ten requirements for effective federal COOP's as defined by the Federal Emergency Management Agency's FPC 65. In addition, during September 2008, LSC successfully tested the telephone trees identified in LSC's COOP. As a result of LSC's actions to implement a comprehensive COOP and associated risk management program, it is now better able to ensure its ability to continue operations in the event of a catastrophic event.

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**Recommendation:** In order to improve and modernize key management processes at LSC, the president and executive committee should conduct an evaluation to determine whether the Government Accounting Standards Board should be adopted as a financial reporting standard for LSC's annual financial statements.

**Agency Affected:** Legal Services Corporation

**Status:** Closed - implemented

**Comments:** In a 2007 review of Legal Services Corporation (LSC) governance and accountability (GAO-07-993), GAO found that LSC's management had not conducted an assessment of accounting standards--those promulgated by the Financial Accounting Standards Board (FASB), Government Accounting Standards Board (GASB), or Federal Accounting Standards Advisory Board--most applicable to LSC operations. GAO recommended that LSC conduct an evaluation to determine which set of standards should be adopted for preparing LSC's annual financial statements. Subsequently, in October of 2007, an LSC management assessment concluded LSC should use GASB as the financial reporting standard for LSC's financial statements. An LSC IG review of LSC's management's assessment concluded it provided a full and complete analysis to determine which accounting standards should be used by LSC. Also, in October 2007, LSC Management presented the results of their evaluation to the LSC Board of Director's Finance Committee. The Finance Committee agreed with Management's recommendation and presented their recommendation in an open session of the Board of Directors. LSC's Board of Directors agreed with the assessments of both LSC management and the finance committee to use GASB as the financial reporting standard for LSC's annual financial statements. As a result of LSC's assessments, LSC now has a more informed basis for the financial reporting standards it will use to prepare its annual financial statements.

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## Legal Services Corporation: Improved Internal Controls Needed in Grants Management and Oversight

GAO-08-37 December 28, 2007

[Highlights Page \(PDF\)](#) [Full Report \(PDF, 41 pages\)](#) [Accessible Text Recommendations \(HTML\)](#)

### Summary

The Legal Services Corporation (LSC) was created as a private nonprofit to support legal assistance for low-income people to resolve their civil legal matters and relies heavily on federal appropriations. In 2006, LSC distributed most of its \$327 million in grants to support such assistance. Effective internal controls over grants and oversight of grantees are critical to LSC's mission. GAO was asked to determine whether LSC's internal controls over grants management and oversight processes provide reasonable assurance that grant funds are used for their intended purposes. GAO analyzed key records and interviewed agency officials to obtain an understanding of LSC's internal control framework, including the monitoring and oversight of grantees, and performed limited reviews of internal controls and compliance at 14 grantees.

GAO found weaknesses in LSC's internal controls over grants management and oversight of grantees that negatively affect LSC's ability to provide assurance that grant funds are being used for their intended purposes in compliance with applicable laws and regulations. Effective internal controls over grants and grantee oversight are critical to LSC as its very mission and operations rely extensively on grantees to provide legal services to people who otherwise could not afford to pay for adequate legal counsel. GAO also found poor fiscal practices and improper and potentially improper expenditures at grantees it visited. Weaknesses in LSC's control environment include the lack of clear definition in the responsibilities of two of the three organizational units that oversee the work of grantees. GAO also found that communication between oversight units and coordination of grantee site visits is not sufficient to prevent gaps or duplication of effort, or both. The timing and scope of site visits is not based on a systematic analysis of the risk of noncompliance or financial control weakness across LSC's 138 grantees, so LSC cannot determine whether its resources are being used effectively and efficiently to mitigate risk among its grantees. LSC control activities performed in the monitoring of grantee internal control were not sufficient in scope to achieve effective oversight, and GAO noted implementation weaknesses. For example, in the site visits GAO observed, staff did not follow up on questionable transactions and relied heavily on information obtained through interviews. Feedback to grantees was often delayed, preventing grantees from correcting deficiencies in a timely manner. As of September 2007, LSC had not yet issued reports to grantee management for about 19 percent (10 out of 53) of the 2006 site visits. LSC grantee reviews missed potential control deficiencies at grantees that could have been detected with more effective oversight as evidenced by weaknesses GAO found at 9 of the 14 grantee sites it visited. While control deficiencies at the grantees were the immediate cause of the problems GAO found, weaknesses in LSC's controls over its oversight of grantees did not assure effective monitoring of grantee controls and compliance. Among the questionable expenditures GAO found were grantee use of funds for expenditures with insufficient supporting documentation, unusual contractor arrangements, alcohol purchases, employee interest-free loans, lobbying fees, late fees, and earnest money.

### Recommendations

Our recommendations from this work are listed below with a Contact for more information. Status will change from "In process" to "Open," "Closed - implemented," or "Closed - not implemented" based on our follow up work.

Director: Susan Ragland

Team: Government Accountability Office: Financial Management and Assurance

Phone: (202) 512-9471

### Recommendations for Executive Action

**Recommendation:** To help Legal Services Corporation improve its internal control and oversight of grantees, LSC management should develop and implement policies and procedures for information sharing among the Office of

the Inspector General (OIG), Office of Compliance and Enforcement (OCE), and Office of Program Performance (OPP), and coordination of OCE and OPP site visits.

**Agency Affected:** Legal Services Corporation

**Status:** Closed - implemented

**Comments:** GAO will follow up on LSC actions in this area as part of an engagement planned to begin in November 2009. Subsequently, LSC issued an OCE procedures manual that addresses the coordination of information with other offices, including visit coordination between OCE and OPP. Additionally, the OCE procedures established a protocol for OCE and the OIG to exchange information. OPP also issued a procedures manual that describes information sharing, specifying when OCE is to provide notice to OPP or to consult with OPP in such matters as --Providing prior approvals to recipients for major expenditures; -- Reviewing and responding to grantees' requests for waivers related to Private Attorney Involvement (PAI) requirements, fund balances and fund deficits; -- Investigating complaints referred by Members of Congress to LSC management pertaining to LSC grantees; -- Reviewing, assessing and responding to public complaints; -- Providing follow up to the referrals of findings by the OIG through the A-50 referral process; and -- Investigating grantees' compliance with the regulations recipients agreed to abide by when accepting Federal funding. In addition, the OPP Procedures Manual includes a protocol for exchanging information with the OIG. As a result of LSC's guidance on information sharing and communication among OPP, OCE and the OIG can enable them to be more effective and should improve LSC's ability to monitor and oversee grants.

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**Recommendation:** To help LSC improve its internal control and oversight of grantees, LSC management should develop and implement an approach for selecting grantees for internal control and compliance reviews that is founded on risk-based criteria, uses information and results from oversight and audit activities, and is consistently applied.

**Agency Affected:** Legal Services Corporation

**Status:** Closed - implemented

**Comments:** In our 2007 report on the Legal Services Corporation (LSC), we found that LSC did not use a structured or systematic approach for assessing risk associated with its 138 grantees as a basis for determining the timing and scope of its grantee oversight visits. In determining which grantees to visit, both the Office of Program Performance (OPP) and the Office of Compliance and Enforcement (OCE) use an approach based primarily on time between site visits and the respective office director's judgments. The director of OCE also said OCE attempts to visit every grantee on a 5 and a half year cycle. However, this time-based cycle is not consistently followed. For example, the second largest grant recipient, receiving over \$13 million in 2006, has not been visited by OCE since at least 1996. In addition, we noted there was a 7-year lapse between OCE visits to a grantee in Las Vegas, Nevada, for which OCE, recently opened an investigation after discovering several significant compliance-related findings. Without a more structured process for selecting grantees to review, LSC does not have an analytical basis to know whether it is has the proper level of staff resources assigned to the grantee review function or whether it is gaining an adequate level of assurance for the number of staff assigned to grantee review activities. Also, when a significant time period exists between OCE visits the risk increases that non-compliance issues may not be detected and remediated in a timely manner. GAO recommended that LSC management develop and implement an approach for selecting grantees for internal control and compliance reviews that is founded on risk-based criteria, uses information and results from oversight and audit activities, and is consistently applied. During 2010, LSC developed two documents: (1) OPP Steps for Program Selection and (2) OCE Steps for Compliance Visit Selection to complement its OPP and OCE Procedures Manuals. The OCE guidance refers to the risk factors listed in the OCE Procedures Manual in the "Criteria to Select Programs for Visits". Both the OPP and OCE guidance documents for program visit selection provide a risk-based, concise description of the process to select programs for reviews. Further, in 2010, LSC revised OCE Office Procedures Manual to emphasize the top risk criteria for selecting grantees for visits, and in 2011, documented program quality and compliance examination visit selection based on a review of risk factors to include both primary and secondary risk factors. Primary risk factors included date of last site visit, and significant programmatic issues identified by LSC or other reliable source. Secondary risk factors included significant complaints filed or pending against a program, transition in program leadership, results of financial statement reviews and others. LSC's actions demonstrate that LSC has developed and implemented risk-based steps for program visit selection and, therefore, has increased the effectiveness and efficiency of its program oversight.

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**Recommendation:** To help LSC improve its internal control and oversight of grantees, LSC management should develop and implement procedures to improve the effectiveness of the current LSC fiscal compliance reviews by

revising LSC's current guidelines to provide a direct link to the results of OPP reviews and OIG and Independent Public Accountant audit findings, guidance for performing follow-up on responses from grantee interviews, and examples of fiscal and internal control review procedures that may be appropriate based on individual risk factors and circumstances at grantees.

**Agency Affected:** Legal Services Corporation

**Status:** Closed - implemented

**Comments:** In our December 2007 report on Legal Services Corporation (LSC) we found that the roles and division of responsibilities between the Office of Inspector General (OIG) and Office of Compliance and Enforcement (OCE) for oversight of grantee financial controls and compliance were not clearly defined. With compliance oversight and monitoring responsibilities divided between OCE and OIG and program oversight activities being performed by Office of Program Performance (OPP), strong coordination and communication among the three offices and a clear understanding of their roles and responsibilities is critical for achieving effective grantee and program oversight. OCE staff expressed confusion about their own roles and responsibility for the more limited fiscal compliance reviews they perform, and there was contention between OCE and OIG over unclear areas of responsibility that dates back to 1995. To help LSC improve its internal control and oversight of grantees, we recommended that LSC develop and implement policies that clearly delineate organizational roles and responsibilities for grantee oversight and monitoring, including grantee internal controls and compliance. During 2010, LSC developed and issued an April 2, 2010 memorandum which defined the responsibilities of the OIG and OCE for grantee oversight and monitoring, including grantee internal controls and compliance. The memo provided that the LSC Board of Directors adopted the "Roles and Responsibilities of LSC Offices Responsible for Grantee Oversight", to include the responsibilities of OPP, OCE and OIG. LSC resolution no. 2008-008 also specified the respective responsibilities for OPP and OCE in the oversight of internal financial controls at grantees. As a result of LSC's actions, LSC increased clarity over roles and responsibilities for grantee oversight, thus providing greater assurance that staff are not duplicating efforts and conducting more effective grantee and program oversight.

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**Recommendation:** LSC management should perform follow-ups on each of the improper or potentially improper uses of grant funds that we identified in this report.

**Agency Affected:** Legal Services Corporation

**Status:** Closed - implemented

**Comments:** Both management and the board are preparing status updates that they plan on delivering on September 1, 2009. GAO will follow up on LSC actions in this area as part of an engagement planned to begin in November 2009. Subsequently, in November 2007, the LSC President referred eight of the nine programs to the LSC Office of Inspector General (OIG) for follow-up. The ninth program, Nevada Legal Services (NLS), was followed up with by the Office of Program Performance and the Office of Compliance and Enforcement (OCE). In a summary report, the LSC OIG concluded that the issues specifically identified by GAO had been sufficiently corrected at each of the eight grantees visited. In addition, the OIG issued eight individual reports demonstrating that follow-up occurred with the eight grantees contributing to the resolution of the recommendation. During 2008, LSC took oversight actions over NLS. In June 2008, as a result of an OCE investigation, NLS was placed on month to month funding along with monthly reporting requirements. In September 2009, a joint OPP and OCE review of NLS was completed which reviewed progress against specific grant conditions. As a result of LSC's and OIG's follow-up efforts on the nine LSC grantees, LSC has a more informed basis for its grant management actions.

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**Recommendation:** To help LSC improve its internal control and oversight of grantees, the LSC Board of Directors should develop and implement policies that clearly delineate organizational roles and responsibilities for grantee oversight and monitoring, including grantee internal controls and compliance.

**Agency Affected:** Legal Services Corporation

**Status:** Closed - implemented

**Comments:** In our December 2007 report of the Legal Services Corporation (LSC), we found that LSC's fiscal reviews did not contain sufficient scope of work to adequately assess grantee internal control or fiscal compliance for purposes of achieving effective oversight. LSC fiscal reviews are intended to determine whether LSC grant recipients demonstrate effective discharge of their stewardship responsibilities. Specifically, fiscal reviews are to examine accountability of LSC funds, and on a limited basis, the effectiveness of the recipient's internal controls. LSC's Office of Program Performance (OPP) performs program site visits to evaluate and develop programs, gather



information, and develop new strategies for expanding access and enhancing quality. However, the LSC reviews we observed left out important follow-up to issues that surfaced during LSC's interviews with grantee personnel and did not address outstanding auditor findings. As a result, GAO found that an OCE analyst did not question grantee officials about a \$30,000 payment to a subgrantee that lacked supporting documentation. In addition, our review of documentation that LSC officials had also reviewed found that LSC staff did not always follow up on apparent improper transactions, such as an improper transaction involving a grantee's sale of a building. To help LSC improve its internal control and oversight of grantees, we recommended that LSC management develop and implement procedures to improve the effectiveness of the current LSC fiscal compliance reviews by revising LSC's current guidelines to provide a direct link to the results of site visit reviews audit findings and responses from grantee interviews, and also provide examples of appropriate fiscal and internal control review procedures. During 2009, LSC revised its On-site Fiscal Review Policies and Procedures to provide comprehensive and the on-site fiscal review policies and procedures, including numerous examples of the types of appropriate procedures to perform and whom to interview. During 2010, LSC updated its manuals to include revised guidance for performing interviews including follow-up on responses from grantee interviews. In addition, procedures were updated in 2010 to provide that on-site reviews are to be conducted in accordance with the approved work plan, and each work plan should identify, in the "Basis for Review" section, the specific risk factors that led to the program being selected for review. For example, the results of financial statement reviews and compliance or other reviews are to be considered as risk factors and incorporated in the approved work plan. With these actions, LSC has developed and implemented procedures to strengthen the effectiveness of its grantee fiscal compliance reviews.

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## LSC Special Task Force on Fiscal Oversight

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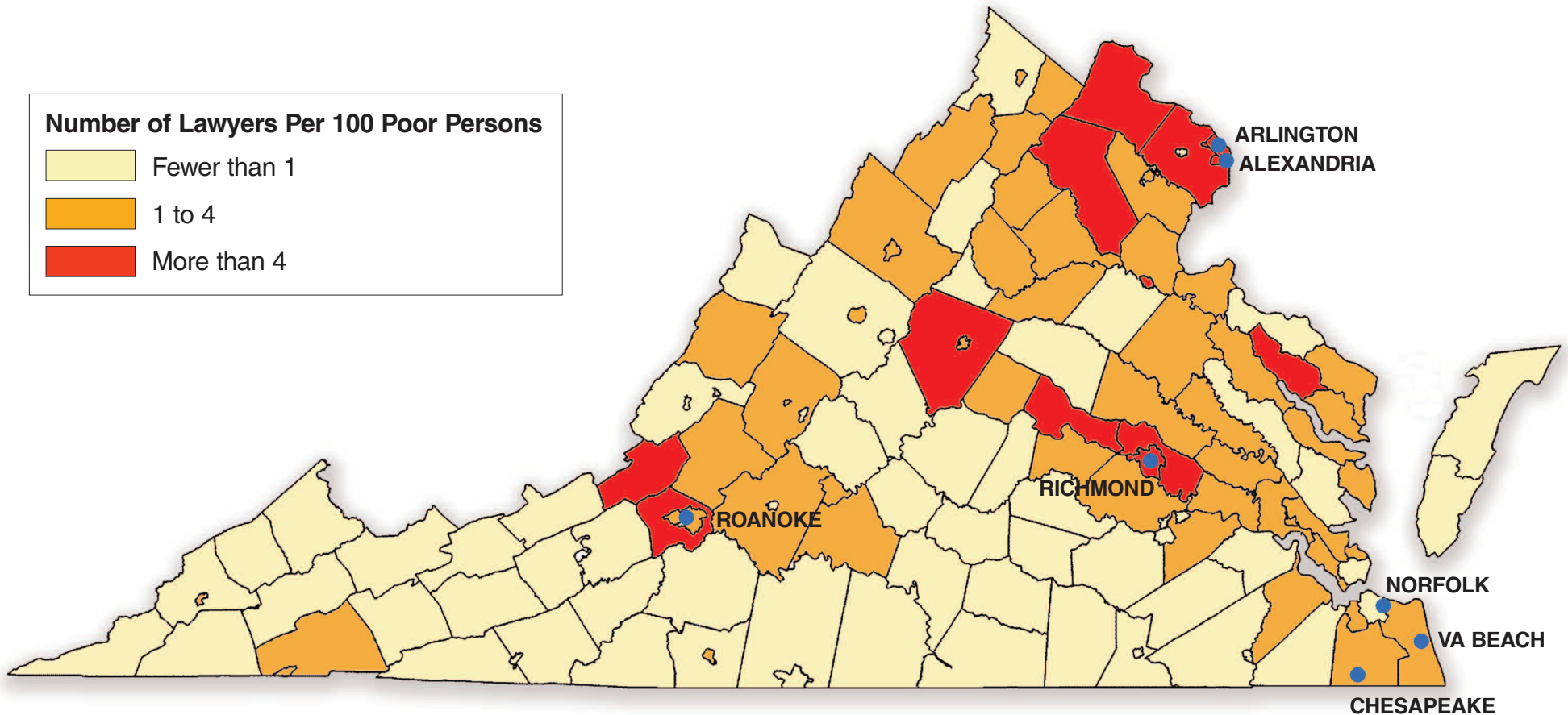
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# Attachment 3: Number of Lawyers Per 100 Poor Persons in Virginia's Counties

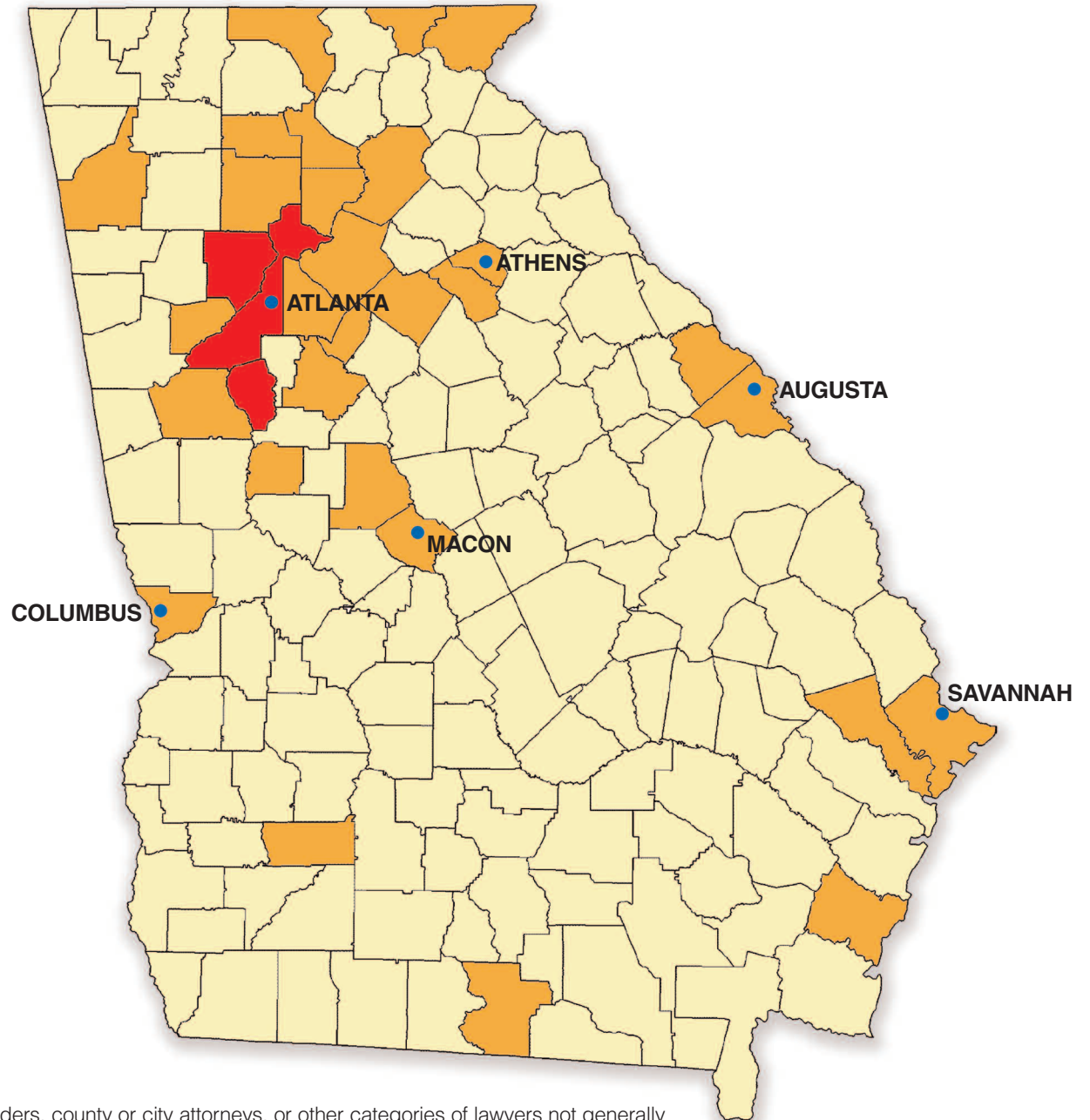
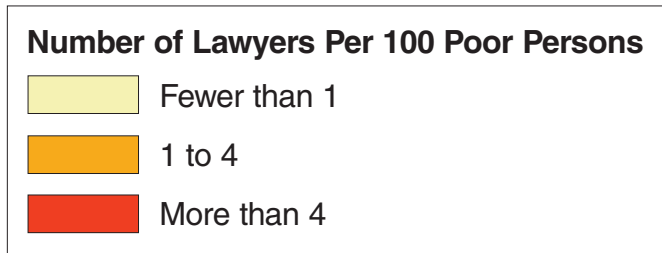


Note: This number may include prosecutors, public defenders, county or city attorneys, or other categories of lawyers not generally available to provide civil legal services.

Source: Calculated from data provided by the State Bar of Virginia and U.S. Census Bureau, 2005-2009 American Community Survey, "Table B17001 Poverty Status in the Past 12 Months by Sex by Age." The State Bar data were by zip code. These were converted to counties with "Zip Codes by County Lookup" on MelissaData.com.

<http://www.melissadata.com/lookups/countyzip.asp>

## Attachment 4: Number of Lawyers Per 100 Poor Persons in Georgia's Counties



Note: This number may include judges, prosecutors, public defenders, county or city attorneys, or other categories of lawyers not generally available to provide civil legal services.

Source: Calculated from data from the State Bar of Georgia Membership Department and U.S. Census Bureau, 2005-2009 American Community Survey, "Table B17001 Poverty Status in the Past 12 Months by Sex by Age."