

# LEGAL SERVICES CORPORATION

## Board of Directors Meeting

April 12 – 14, 2015

**Location:**

Legal Services Corporation  
3333 K Street, N W  
3<sup>rd</sup>. Floor  
F. William McCalpin Conference Center  
Washington, DC 20007



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# **Schedule**

**LEGAL SERVICES CORPORATION BOARD OF DIRECTORS  
MEETING SCHEDULE**

**APRIL 12 - 14, 2015**

**Meeting Location:**

**Legal Services Corporation, McCalpin Conference Center**

**3333 K Street, NW, Washington, DC**

**Tel (202) 295-1500**

**SUNDAY, APRIL 12, 2015**

Start	End	Meeting/Event	Location
2:00pm	4:30pm	Operations & Regulations Committee	Legal Services Corporation McCalpin Conference Center 3333 K Street NW

**LEGAL SERVICES CORPORATION BOARD OF DIRECTORS  
MEETING SCHEDULE**

**APRIL 12 - 14, 2015**

**Meeting Location:**

**Legal Services Corporation, McCalpin Conference Center**

**3333 K Street, NW, Washington, DC**

**Tel (202) 295-1500**

**MONDAY, APRIL 13, 2015**

Start	End	Meeting/Event	Location
9:00am	10:00am	Finance Committee	Legal Services Corporation McCalpin Conference Center 3333 K Street NW
10:15am	11:15am	Delivery of Legal Services Committee	Legal Services Corporation McCalpin Conference Center 3333 K Street NW
11:15am	12:15pm	Governance & Performance Review Committee	Legal Services Corporation McCalpin Conference Center 3333 K Street NW

***EMERGENCY CONTACTS:***

**In the case of an emergency, please contact Rebecca Fertig at (202) 577-6313 or [fertigr@lsc.gov](mailto:fertigr@lsc.gov) or  
Bernie Brady at (202) 295-1568 or [bradyb@lsc.gov](mailto:bradyb@lsc.gov)**

1:15pm	2:45pm	Audit Committee	Legal Services Corporation McCalpin Conference Center 3333 K Street NW
3:00pm	4:00pm	Institutional Advancement Committee	Legal Services Corporation McCalpin Conference Center 3333 K Street NW
4:45pm	---	Travel to the Supreme Court	--
5:30pm	7:00pm	Supreme Court Reception	One First Street NE

**LEGAL SERVICES CORPORATION BOARD OF DIRECTORS  
MEETING SCHEDULE**

**APRIL 12 - 14, 2015**

**Meeting Location:**

**Legal Services Corporation, McCalpin Conference Center**

**3333 K Street, NW, Washington, DC**

**Tel (202) 295-1500**

**TUESDAY, APRIL 14, 2015**

Start	End	Meeting/Event	Location
9:00am	11:00am	OPEN Board Meeting	Legal Services Corporation McCalpin Conference Center 3333 K Street NW
11:00am	12:00pm	CLOSED Board Meeting	Legal Services Corporation McCalpin Conference Center 3333 K Street NW
12:30pm	---	Travel to the White House	

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1:30pm	4:00pm	<p style="text-align: center;"><b>White House Forum on Increasing Access to Justice</b></p> <p style="text-align: center;"><u>The Importance of Access to Justice to the Judiciary</u></p> <p style="text-align: center;">Chief Justice Tani G. Cantil-Sakauye, California Supreme Court Chief Justice Nathan L. Hecht, The Supreme Court of Texas Judge Denise Page Hood, United States District Court, Eastern District of Michigan Chief Justice Jorge Labarga, Florida Supreme Court Chief Justice Sharon G. Lee, Tennessee Supreme Court Chief Judge Jonathan Lippman, New York Court of Appeals Chief Justice John D. Minton, Jr., The Supreme Court of Kentucky Judge Diane P. Wood, United States Court of Appeals, for the Seventh Circuit James J. Sandman, President, Legal Services Corporation (<i>Moderator</i>)</p> <p style="text-align: center;"><u>Technology Innovations in Access to Justice</u></p> <p style="text-align: center;">Abhijeet Chavan, Chief Technology Officer, Urban Insight Nan Heald, Executive Director, Pine Tree Legal Assistance, Inc. Anna Hineline, Technology Coordinator, Legal Assistance of Western, New York, Inc. Hanna Kaufmann, Law Student, Chicago Kent Law School Angela Tripp, Project Manager, Michigan Legal Help Program Glenn Rawdon, Program Counsel for Technology, Legal Services Corporation (<i>Moderator</i>)</p> <p style="text-align: center;"><u>Perspectives on Access to Justice from the Business Community</u></p> <p style="text-align: center;">Chris Campbell, Senior Vice President &amp; General Counsel, Yum! Brands Brackett Denniston, General Counsel, General Electric Company Ivan Fong, General Counsel, 3M Max A. Laun, Vice President &amp; General Counsel, Alcoa</p>	<p style="text-align: center;"><b>Eisenhower Executive Office Building South Court Auditorium</b></p>
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Bernie Brady at (202) 295-1568 or [bradyb@lsc.gov](mailto:bradyb@lsc.gov)**

		<p>Shari Redstone, Vice Chair of the Board; Director, CBS Corporation</p> <p>Theresa Wynn Roseborough, Executive Vice President, General Counsel &amp; Corporate Secretary Home Depot</p> <p>John Schultz, General Counsel, Hewlett- Packard Company</p> <p>Dean Martha Minow, Harvard Law School and Legal Services Corporation Vice Chair <i>(Moderator)</i></p>	
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1:30pm	4:00pm	<p style="text-align: center;"><b>White House Forum on Increasing Access to Justice</b></p> <p style="text-align: center;"><u>The Importance of Access to Justice to the Judiciary</u></p> <p style="text-align: center;">Chief Justice Tani G. Cantil-Sakauye, California Supreme Court Chief Justice Nathan L. Hecht, The Supreme Court of Texas Judge Denise Page Hood, United States District Court, Eastern District of Michigan Chief Justice Jorge Labarga, Florida Supreme Court Chief Justice Sharon G. Lee, Tennessee Supreme Court Chief Judge Jonathan Lippman, New York Court of Appeals Chief Justice John D. Minton, Jr., The Supreme Court of Kentucky Chief Judge Diane P. Wood, United States Court of Appeals, for the Seventh Circuit James J. Sandman, President, Legal Services Corporation (<i>Moderator</i>)</p> <p style="text-align: center;"><u>Technology Innovations in Access to Justice</u></p> <p style="text-align: center;">Abhijeet Chavan, Chief Technology Officer, Urban Insight Nan Heald, Executive Director, Pine Tree Legal Assistance, Inc. Anna Hineline, Technology Coordinator, Legal Assistance of Western, New York, Inc. Hanna Kaufman, Law Student, Chicago Kent Law School Angela Tripp, Project Manager, Michigan Legal Help Program Glenn Rawdon, Program Counsel for Technology, Legal Services Corporation (<i>Moderator</i>)</p>	<p style="text-align: center;"><b>Eisenhower Executive Office Building South Court Auditorium</b></p>
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		<p><u>Perspectives on Access to Justice from the Business Community</u></p> <p>Chris Campbell, Senior Vice President &amp; General Counsel, Yum! Brands</p> <p>Brackett Denniston, General Counsel, General Electric Company</p> <p>Ivan Fong, General Counsel, 3M</p> <p>Max A. Laun, Vice President &amp; General Counsel, Alcoa</p> <p>Shari Redstone, Vice Chair of the Board; Director, CBS Corporation</p> <p>Theresa Wynn Roseborough, Executive Vice President, General Counsel &amp; Corporate Secretary Home Depot</p> <p>John Schultz, General Counsel, Hewlett-Packard Company</p> <p>Dean Martha Minow, Harvard Law School and Legal Services Corporation Vice Chair <i>(Moderator)</i></p>	
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# **Operations & Regulations Committee**

# Agenda

# **OPERATIONS & REGULATIONS COMMITTEE**

**April 12, 2015**

## **Agenda**

### **OPEN SESSION**

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting on January 22, 2015
3. Consider and act on Notice of Proposed Rulemaking for 45 CFR § 1610.7—Transfers of LSC Funds and 45 CFR Part 1627—Subgrants and Membership Fees or Dues
  - Ron Flagg, General Counsel
  - Stefanie Davis, Assistant General Counsel
  - Mark Freedman, Senior Assistant General Counsel
4. Consider and act on Rulemaking Options Paper and Notice of Proposed Rulemaking for 45 CFR Part 1628—Recipient Fund Balances
  - Ron Flagg, General Counsel
  - Stefanie Davis, Assistant General Counsel
5. Consider and act on Final Rule for 45 CFR Part 1640—Application of Federal Law to LSC Recipients
  - Ron Flagg, General Counsel
  - Stefanie Davis, Assistant General Counsel
  - Laurie Tarantowicz, Assistant Inspector General and Legal Counsel
  - Sarah Anderson, Law Fellow
  - Public comment
6. Report on Program Letters 15-1 and 15-2 regarding 45 CFR Part 1607—Governing Bodies
  - Ron Flagg, General Counsel
  - Stefanie Davis, Assistant General Counsel

7. Annual report on enforcement mechanisms
  - Jim Sandman, President
  - Mark Freedman, Senior Assistant General Counsel
8. Update on comments on population data for grants to serve agricultural and migrant farmworkers
  - Ron Flagg, General Counsel
  - Bristow Hardin, Program Analyst
9. Update on performance management and human capital management
  - Jim Sandman, LSC President
  - Traci Higgins, Director of Human Resources
10. Other public comment
11. Consider and act on other business
12. Consider and act on adjournment of meeting



**Draft Minutes of the January 22, 2015  
Open Session Meeting**

**Legal Services Corporation  
Meeting of the Operations & Regulations Committee**

**Open Session**

**Thursday, January 22, 2015**

**DRAFT**

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 5:20 p.m. on Thursday, January 22, 2015. The meeting was held at the Westin Colonnade Hotel, 180 Aragon Avenue, Coral Gables, Florida 33134.

The following Committee members were present:

Charles N.W. Keckler, Chairman  
Robert J. Grey, Jr.  
Harry J. F. Korrell, III  
Laurie I. Mikva

Other Board members present:

John G. Levi  
Victor B. Maddox  
Martha Minow  
Father Pius Pietrzyk  
Julie A. Reiskin  
Gloria Valencia-Weber

Also attending were:

James J. Sandman	President
Rebecca Fertig Cohen	Special Assistant to the President
Lynn Jennings	Vice President for Grants Management
Ronald S. Flagg	Vice President for Legal Affairs, General Counsel, and Corporate Secretary
Mark Freedman	Senior Assistant General Counsel, Office of Legal Affairs (OLA), (by telephone)
Stefanie Davis	Assistant General Counsel, Office of Legal Affairs (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, Office of Government Relations and Public Affairs (GRPA)

Marcos Navarro	Design Director, Office of Government Relations and Public Affairs (GRPA)
Wendy Rhein	Chief Development Officer
Jeffrey E. Schanz	Inspector General
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the Inspector General
David Maddox	Assistant Inspector General for Management and Evaluation, Office of the Inspector General
David O'Rourke	Assistant Inspector General for Investigations (OIG)
John Seeba	Assistant Inspector General for Audit, Office of Inspector General
Lora M. Rath	Director, Office of Compliance and Enforcement (OCE)
Janet LaBella	Director, Office of Program Performance (OPP)
Bristow Hardin	Office of Program Performance (OPP)
Frank Strickland	Non-Director Member, Institutional Advancement Committee
Herbert S. Garten	Non-Director Member, Institutional Advancement Committee
Allan J. Tanenbaum	Non-Director Member, Finance Committee
Richard Leefe	Leefe and Gibbes
Nicole Nelson	Executive Director, Alaska Legal Services Corporation
Richard Austin	Executive Director, Legal Services of the Virgin Islands, Inc.
Don Saunders	National Legal Aid and Defenders Association (NLADA)
Robin C. Murphy	National Legal Aid and Defenders Association (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 Keckler noted the presence of a quorum and called the meeting to order.

**MOTION**

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

**VOTE**

The motion passed by voice vote.

**MOTION**

Mr. Grey moved to approve the minutes of the Committee meetings of October 5, 2014. Ms. Mikva seconded the motion.

**VOTE**

The motion passed by voice vote.

Committee Chairman Keckler summarized the Committee's evaluations for 2014 and goals for 2015. He invited comments from the Committee members.

President Sandman reported on Management's implementation of LSC's Strategic Plan 2012- 2016. He answered Committee members' questions.

Ms. Davis and Mr. Flagg briefed the Committee on 45 CFR Part 1628, Fund Balances, and proposed adding this rule to the rulemaking agenda. Ms. Davis and Mr. Flagg answered Committee members' questions.

**MOTION**

Ms. Mikva moved to add rule 45 CFR Part 1628 to the rulemaking agenda. Mr. Korrell seconded the motion.

**VOTE**

The motion passed by voice vote.

Ms. Davis and Mr. Flagg did a briefing on 45 CFR Part 1603, State Advisory Councils. Ms. Davis and Mr. Flagg answered Committee members' questions.

Ms. Davis and Mr. Flagg updated the Committee on the proposed final rule amending 45 CFR Part 1640, Application of Federal Law to LSC Recipients, and answered Committee members' questions. Committee Chairman Keckler invited public comment regarding the proposed final rule for Part 1640. The Committee received public comments from Robin Murphy, National Legal Aid and Defenders Association (NLADA).

**MOTION**

Mr. Korrell moved to recommend approval of the proposed final rule to the Board.

**VOTE**

The motion passed by voice vote.

Mr. Flagg and Mr. Hardin summarized the proposed update of population data for grants to service migratory and other farmworkers. Mr. Flagg and Mr. Hardin answered Committee members' questions.

**MOTION**

Mr. Grey moved to recommend to the Board the publication of the proposed Federal Register Notice for public comment. Mr. Korrell seconded the motion.

**VOTE**

The motion passed by voice vote.

The Committee received public comments from Don Saunders, National Legal Aid and Defenders Association (NLADA).

There was no new business to consider.

**MOTION**

Ms. Mikva moved to adjourn the meeting. Mr. Korrell seconded the motion

**VOTE**

The motion passed by voice vote.

The Committee meeting adjourned at 7:02p.m.

**Notice of Proposed Rulemaking**  
**Code of Federal Regulations 45**  
**Part 1610.7 & 1627**

**LEGAL SERVICES CORPORATION**

**45 CFR Parts 1610, 1627, and 1630**

**Use of Non-LSC Funds, Transfer of LSC Funds, Program Integrity; Subgrants and Membership Fees or Dues; Cost Standards and Procedures**

**AGENCY:** Legal Services Corporation

**ACTION:** Notice of proposed rulemaking

**SUMMARY:** This proposed rule revises the Legal Services Corporation (LSC or Corporation) regulations governing transfers of LSC funds, subgrants to third parties, and cost standards and procedures.

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

**ADDRESSES:** You may submit comments by any of the following methods:

E-mail: [lscrulemaking@lsc.gov](mailto:lscrulemaking@lsc.gov). Include “Part 1627 Rulemaking” in the subject line of the message.

Fax: (202) 337-6519.

Mail: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW, Washington, DC 20007, ATTN: Part 1627 Rulemaking.

Hand Delivery/Courier: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW, Washington, DC 20007, ATTN: Part 1627 Rulemaking.

Electronic submissions are preferred via email with attachments in Acrobat PDF format. LSC may not consider written comments sent via any other method or received after the end of the comment period.

**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), sdavis@lsc.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Regulatory History**

A. Part 1627. LSC initially promulgated 45 CFR part 1627 in 1983 to improve its oversight of and accountability for LSC funds transferred by recipients to third parties. 48 FR 54206, 54207, Nov. 30, 1983. Prior to the issuance of part 1627, LSC did not regulate subawards of its funds. LSC intended part 1627 to apply to all transfers of LSC funds, which it described in the rule as subgrants, fees and dues, contributions, transfers to other recipients (considered a type of subgrant), training and education activities, and payments to tax-sheltered annuities, retirement accounts, and pensions on behalf of employees. Id. at 54209. LSC did not intend the rule to govern a recipient's procurement of goods and services for its own use. 48 FR 28485, June 22, 1983; 48 FR 54206, 54209, Nov. 30, 1983.

In the proposed rule for part 1627, LSC defined the term subgrant as

any transfer of funds received from the Corporation by a recipient to any organization for the purpose of carrying out a portion of the recipient's program under a grant or contract from the Corporation; it shall not include a contract for services to be rendered directly to the recipient, nor shall it include any contract with private attorneys or law firms for the direct provision of legal services to eligible clients.

48 FR 28485, 28486, June 22, 1983. In the final rule, LSC incorporated the quoted language into the definition of subrecipient, along with new language explaining what LSC considered activities conducted "for the purpose of carrying out a portion of the recipient's program." 48 FR 54206, 54207, Nov. 30, 1983. LSC also made contracts with private attorneys or law firms for the direct provision of legal services to eligible clients subject to the subgrant rule if the contract



cost exceeded \$25,000. Id. LSC redefined the term subgrant as “any transfer of Corporation funds from a recipient which qualifies the organization receiving such funds as a subrecipient under the [revised definition of subrecipient].” Id.

In part 1627, LSC established the process by which a recipient could seek approval of a proposed subgrant, the maximum duration of a subgrant, the recipient’s responsibilities for ensuring compliance with LSC’s fiscal and audit requirements, and the recipient’s responsibility to repay any disallowed costs. 48 FR 54206, 54209, Nov. 30, 1983. LSC also asserted its own rights to oversee subgrants to ensure the subgrantees’ compliance with the LSC Act and other applicable statutes, LSC’s regulations, and Corporation guidelines and instructions. Id. A separate section of the rule made these requirements applicable to subgrants from one LSC recipient to another. Id. Because a subgrant of LSC funds from one LSC recipient to another is a transfer of funds granted by the same agency, LSC established reporting, accounting, and repayment rules for these types of arrangements that reflect LSC’s relationship to both parties. Id. at 54210.

LSC last revised part 1627 in 1996. LSC published an interim rule to reflect the complete prohibition on the use of LSC funds to pay fees or dues enacted as part of its fiscal year 1996 appropriations act (“FY96 appropriations act”). Sec. 505, Pub. L. 104-134, 110 Stat. 1321 (1996). LSC also added a requirement that recipients establish adequate recordkeeping policies to document compliance with part 1627. 61 FR 45753, 45754, Aug. 29, 1996. The subgrant provisions remained unchanged, as did the provisions prohibiting contributions of LSC funds to other organizations and allowing recipients to make payments to tax-sheltered annuity funds, retirement accounts, or pension funds on behalf of its employees. Id. at 45753. The interim rule became final with only minor, non-substantive changes in 1997. 62 FR 19417, Apr. 21, 1997.

B. Part 1610. Part 1610 implements the statutory restrictions on the use of non-LSC funds by LSC recipients. 45 CFR 1610.1. Originally promulgated in 1976, part 1610 has been revised relatively frequently due to changes in statutory restrictions and in LSC's policies regarding the application of those restrictions. As with part 1627, LSC amended part 1610 in 1996 and 1997 to implement new restrictions Congress placed on recipients' LSC and non-LSC funds through the FY96 appropriations act. Sec. 504, Pub. L. 104-134, 110 Stat. 1321 (1996). Relevantly, in the December 1996 final rule, LSC added § 1610.7 to govern the application of the LSC Act restrictions and the FY96 appropriations act restrictions to recipient transfers of LSC funds and non-LSC funds to third parties. 61 FR 63749, 63752, Dec. 2, 1996. Newly added § 1610.7 also established requirements for aligning a third-party's priorities for the use of transferred funds with the LSC recipient's priorities and for timekeeping on cases and matters undertaken with the transferred funds. Id.

LSC issued a new interim rule in March 1997 in which it removed transfers of non-LSC funds from § 1610.7. 62 FR 12101, Mar. 14, 1997. LSC made this change to part 1610 in response to an order issued by the United States District Court for the District of Hawaii preliminarily enjoining LSC from enforcing the application of some of the FY96 appropriations act restrictions to non-LSC funds. Id.; see also Legal Aid Society of Hawaii v. Legal Services Corporation, 961 F. Supp. 1402 (D. Haw. 1997). LSC made no other changes to § 1610.7 as it applied to transfers of LSC funds. Section 1610.7 became final with only minor, non-substantive changes. 62 FR 27695, 27699, May 21, 1997.

In 2010, LSC revised part 1610 in response to legislation that removed the FY96 appropriations act restriction on recipients' ability to claim or collect attorneys' fees. 79 FR 21506, 21508, Apr. 26, 2010. The 2010 revision did not affect § 1610.7.

## II. History of This Rulemaking

A. Office of Inspector General Audit of the Technology Initiative Grant Program. In 2010, LSC's Office of Inspector General (OIG) conducted an audit of the Corporation's Technology Initiative Grant (TIG) program. Among its findings was a conclusion that LSC improperly applied part 1627 to the TIG program. Audit of Legal Services Corporation's Technology Initiative Grant Program, Report No. AU-11-01, at 41-44, Dec. 2010. In support of its finding, OIG looked to the definition of the term subrecipient, particularly the portion stating that the entity receiving the award of LSC funds "agree[s] to conduct certain activities specified by or supported by the [original] recipient related to the recipient's programmatic activities. Such activities would normally include those that might otherwise be expected to be conducted by the recipient itself[.]" Id. at 41; see also 45 CFR 1627.2(b)(1). Based on this language, OIG found that

LSC's subgrant rule applies to all payments made by TIG grantees to third parties that then carry out some or all of the activities that 'might otherwise be expected to be conducted directly by the recipient' of a TIG grant made for the purposes specified in the grant documents. The TIG grants specify programmatic purposes other than the direct provision of legal services, namely the implementation of certain technological improvements. Payments by TIG grantees to third parties for services that fall within these purposes amount to subgrants within the meaning of LSC's regulations as currently written and should be administered consistent with the requirements of Part 1627.

Id. at 42.

OIG reached the same conclusion regarding the application of § 1610.7 to third-party payments of TIG funds. Id. at 50.

OIG noted in its report that

the programmatic purposes of some TIG grants appeared to overlap the sort of business services that might not be treated as subgrants in other contexts. There is a degree of ambiguity in the application of LSC's subgrant rule to

grants with relatively narrow, technological programmatic purposes, as was the case with some TIG grants. Part 1627 draws a distinction between payments to third parties to carry out activities ‘related to the [grantee’s] programmatic activities,’ which must be treated as subgrants, and services provided by ‘vendors or consultants in the normal course of business,’ which need not be treated as subgrants when the services ‘would not be expected to be provided directly by the [grantee] itself.’ The subgrant rule appears to have been written with the LSC’s principal legal service grants in mind, such that ordinarily, programmatic activities consist of the provision of legal services, and business services can easily be classified as ancillary. This division is not as easy to make in the case of TIG grants, and the rule does not seem to have anticipated this problem.

Id. at 42.

OIG recommended that LSC Management “initiate a process to amend LSC regulations to account for [unique features of TIG projects] . . . .” Id. at 44. Management responded that LSC would review the subgrant rule “to determine whether it adequately accounts for the unique features of TIGs” and to determine whether to make recommendations for revising part 1627 to the Board of Directors. Id. Management also affirmed its reading of the subgrant rule by stating that it had consulted the Office of Legal Affairs to distinguish between “programmatic subgrants” and “non-programmatic expenditures for goods and services . . . .” Id. at 45. OIG considered Management’s proposal to be responsive, but noted that its own recommendation contemplated rulemaking beyond merely making changes to part 1627. Id. OIG stated that it would leave the recommendation open until “all actions are completed and the OIG is notified of the results.” Id.

B. 2012 Initiation of Rulemaking. Consistent with its response to OIG’s recommendation, LSC Management presented a Rulemaking Options Paper (“ROP”) and Management recommendation to the Operations and Regulations Committee (“Committee”) of the LSC Board of Directors (“Board”) at its quarterly meeting on April 16, 2012. In the ROP, LSC staff discussed options for addressing two issues raised by OIG’s report. The first set of

options pertained to LSC's oversight of TIG subawards to third parties that were not considered subgrants. The second set of options related to OIG's recommendation to revise the regulations to account for the special features of TIGs.

With respect to LSC's oversight of non-subgrant awards of TIG funds, OIG was satisfied that LSC's newly adopted TIG third-party contracting policy addressed its concerns. OIG consequently closed the related recommendations. In light of this development, Management recommended against rulemaking to respond to OIG's recommendations. The Committee voted to adopt Management's recommendation.

LSC developed three options to address OIG's concern that TIG subawards were not treated properly as subgrants. LSC first proposed that the Board could choose not to engage in rulemaking on the matter and let Management continue to apply its interpretation of the subgrant rules at part 1627 and the transfer rule at part 1610. LSC's next options each contemplated rulemaking, but in opposing directions. The second option proposed initiating rulemaking to adopt Management's interpretation of part 1627: that in order to be considered a subgrant, the award to a third party must be for carrying out the recipient's overall programmatic purpose of providing legal assistance to eligible clients. The last option was to initiate rulemaking to adopt OIG's interpretation of the rule: that a subgrant is any award to a third party to carry out the programmatic purposes of the particular grant from which the award is made.

In its memo to the Committee, Management recommended that the Committee initiate rulemaking to amend parts 1610 and 1627. Management believed that both rules should be amended to reflect LSC's "longstanding reading of these rules – that is, that both rules are designed to address legal services activities." Management explained that the transfer rule, which takes the definition of "transfer" substantially from part 1627,

subjects the transferee to all of LSC's substantive restrictions on legal services activities, including the 1996 restrictions that reach the use of non-LSC funds. These restrictions involve *legal services* activities (such as class actions, representation of aliens, and lobbying) and *legal aid program operations* (such as program priorities and timekeeping for cases and matters). As with the subgrant rule, the transfer rule does not extend those restrictions to non-programmatic procurement of goods or services. *Management does not believe it would be prudent grant management to extend these types of restrictions and requirements to third-party vendors that provide business services and technology services as part of TIGs.* These LSC restrictions are meant to apply to entities that receive LSC funds for the provision of legal services under the LSC Act.

Management further explained that its interpretation avoids absurd results in other contexts. For example, LSC makes disaster relief grants to recipients whose offices have been damaged or destroyed by natural disasters. Those grants may be used to hire contractors to rebuild the offices or purchase new office supplies. Under OIG's reading, Management said, the building contractor would become a subgrantee under part 1627 because the purpose of the emergency grant is to help the recipient rebuild. Under Management's interpretation of parts 1610 and 1627, it would not.

The Committee accepted Management's recommendation. On April 16, 2012, the Chairman of the Committee presented the Committee's recommendation to initiate rulemaking on parts 1610 and 1627 to the Board of Directors for a vote. Some members of the Board raised concerns that because conflicting interpretations of parts 1610 and 1627 were the impetus for the rulemaking, rulemaking was perhaps an inefficient and inappropriate vehicle for resolving the dispute. Rather than voting on the Committee's recommendation, the Board voted to return the issue to the Committee to determine whether LSC could adopt a particular interpretation of parts 1610 and 1627 through a policy document rather than through rulemaking.

In response to the Board's instruction, the Committee directed LSC and OIG staff to determine whether LSC had options other than rulemaking to resolve the ambiguity regarding

which subawards were covered by part 1627. The Committee met telephonically on June 18, 2012, to discuss the results of the staff deliberations. Both OIG and Management concluded that rulemaking was necessary to ensure that part 1627 reflected Management's concept of subgrants as awards to a third party for carrying out part of an LSC recipient's grant to provide legal services to eligible clients. The Committee concurred, and voted again to recommend that the Board initiate rulemaking to revise the subgrant rule.

On July 27, 2012, the Chairman of the Committee presented the Committee's recommendation to the Board of Directors. The Board accepted the recommendation and directed LSC staff to develop a draft rule for the Board's consideration, and OIG closed the related recommendation from its report. The rulemaking, however, became a lower priority on the Committee's agenda as a result of two factors. The first was the issuance of LSC's Pro Bono Task Force Report, which led to the extensive rulemaking process to revise part 1614. The second was the need to revise parts 1613 and 1626 to accommodate legislative changes to LSC's authority to provide legal assistance to individuals facing criminal charges in tribal courts and to certain non-citizen victims of violence, respectively. LSC revived the part 1627 rulemaking as a priority item on its 2015-2016 rulemaking agenda.

On April XX, 2015, the Committee voted to recommend that the Board publish this NPRM in the Federal Register for notice and comment. On April XX, 2015, the Board accepted the Committee's recommendation and approved publication of the NPRM.

### **III. Section-by-Section Analysis of Proposed Changes.**

As will be discussed in more detail below, LSC proposes to revise part 1627 to adopt Management's interpretation of the rule as applying only to those subgrants awarded to third parties for the purpose of carrying out legal assistance activities authorized by the recipient's

LSC grant. LSC also proposes to transfer § 1610.7, which governs the applicability of the restrictions placed upon acceptance of LSC funds by the LSC Act and § 504 of LSC’s fiscal year 1996 appropriations act, to part 1627. Finally, LSC proposes to transfer existing §§ 1627.4, 1627.5, and 1627.7 from part 1627 to part 1630, which governs the allowability and allocability of costs to LSC grants. LSC seeks comments on each of the proposed changes.

A. Proposed Changes to Part 1627.

§ 1627.1 Purpose. LSC proposes to revise this section to state more clearly that part 1627 establishes the requirements for subgrants of LSC funds.

§ 1627.2 Definitions. LSC proposes to alphabetize the definitions for ease of reference. Because LSC is proposing to relocate existing § 1627.4 to part 1630, LSC proposes to remove the definition of membership fees or dues currently located in paragraph (c) of this section.

§ 1627.2(a) Private attorney. LSC proposes to adopt the definition of the term private attorney established by 45 CFR part 1614.

§ 1627.2(b) Programmatic. LSC proposes to define the term programmatic to mean “activities or functions carried out for the purpose of providing legal assistance, as defined in § 1002 of the LSC Act, 42 U.S.C. 2996a(5).” Programmatic activities do not include the provision of goods or services by vendors or consultants that the recipient would not be expected to provide itself.

LSC proposes defining programmatic to explicitly reference the definition of legal assistance provided in the LSC Act to ensure that Management’s interpretation of part 1627 applies. In other words, activities are programmatic only if they are conducted in furtherance of a recipient’s grant to provide legal assistance to eligible clients. Activities are not programmatic if they are technical in nature, such as the provision of web development services.



§ 1627.2(c) Recipient. LSC proposes to remove recipients of grants or contracts awarded under section 1006(a)(3) of the LSC Act, 42 U.S.C. 2996e(a)(3), from the definition of recipient. Section 1006(a)(3) of the LSC Act authorizes LSC “to undertake directly, or by grant or contract, the following activities relating to the delivery of legal assistance—research . . . training and technical assistance, and [] to serve as a clearinghouse for information.” 42 U.S.C. 2996e(a)(3). LSC proposes to remove these types of awards from the scope of part 1627 because, as Congress stated, the activities funded through these awards are related to the delivery of legal assistance, but are not themselves an integral part of a recipient’s delivery of legal assistance. LSC currently does not make awards under § 2996e(a)(3) of the LSC Act; if LSC did, 45 CFR part 1630, LSC’s cost standards and procedures, would continue to govern entities receiving such awards.

§ 1627.2(d) Subgrant. LSC proposes to revise the definition of subgrant currently in § 1627.2(b)(2). LSC proposes to adopt a definition that substantially mirrors the definition of subaward contained in the Uniform Grants Guidance (UGG), 2 CFR 200.92, which applies to Federal awards. LSC proposes to revise the definition to make clear that the purpose of the award is to carry out part of the recipient’s grant to provide legal assistance and to remove the references to “pass-through entities.” LSC is not bound by the UGG, and does not intend, by adopting this definition, to obligate itself or its recipients to abide by the rules for pass-through entities and subgrantees established by the UGG.

LSC proposes to retain the exclusion from the definition of subgrant for judicare arrangements or contracts with private attorneys for the direct delivery of legal assistance to recipients’ clients. LSC also seeks comment regarding the \$25,000 threshold for private attorney involvement (PAI) contracts supported with LSC funds. During the rulemaking to revise part 1614 on PAI, LSC received a comment recommending that LSC increase the threshold from

\$25,000 to \$60,000 to account for inflation since LSC established the \$25,000 threshold in 1983. 70 FR 61770, 61780, Oct. 15, 2014. After consideration, LSC determined that it would benefit from receiving additional information before making any adjustments to the threshold. For this reason, LSC specifically requests comments on whether it should amend the \$25,000 threshold, on what amount LSC should set as the new threshold, and providing justification for the proposed threshold.

§ 1627.2(e) Subrecipient. LSC proposes to simplify the existing definition of subrecipient currently located at § 1627.2(b)(1). LSC proposes to move relevant portions of the current definition to the definitions of programmatic and subgrant to improve clarity. The revised definition will continue to make clear that a single entity may be a subrecipient with respect to some activities, while not being a subrecipient for other activities it conducts for a recipient.

§ 1627.3 Characteristics of subgrants. LSC proposes to add a new § 1627.3 stating the factors that recipients should consider in determining whether a potential award is a subgrant and requiring recipients to support subgrants using funds, rather than goods or services. LSC proposes to add this section to provide recipients with a framework for determining whether a proposed award to a third party is a subgrant subject to the requirements of this part. This section will make clear that subgrants are awards to third parties that support a recipient's delivery of legal assistance to eligible clients, consistent with Management's interpretation of part 1627.

The first two paragraphs of proposed § 1627.3 are taken substantially from the UGG, specifically 2 CFR 200.330. Paragraph (a) adopts the language at § 200.330(c), which explains that the listed characteristics are indicative of a subgrant, but need not all be present in order for an award to be considered a subgrant. Paragraph (b) sets forth the characteristics of a subgrant

from § 200.330(a), with minor revisions to make clear that the context for subgrant activities and the performance of the subrecipient is the LSC recipient's legal services work.

In considering whether an award should be a subgrant, the primary question is whether the work the subrecipient is doing essentially substitutes for the recipient's legal services work. The following examples demonstrate whether certain types of awards to third parties meet the characteristics of a subgrant.

**Example 1:** An LSC recipient provides an award to another legal services organization to conduct telephone intake and refer cases either to private attorneys for handling or to another organization if the caller is not eligible for LSC-funded legal assistance. This award would properly be considered a subgrant because it meets all five of the characteristics. First, the subrecipient is responsible for determining who is eligible, including whether the person's case is within the recipient's priorities, for legal assistance under the recipient's LSC grant. Second, the subrecipient's performance in referring cases to private attorneys is measured in relation to the recipient's objectives for referring cases to private attorneys in order to meet the requirements of the PAI rule. Third, the subrecipient has responsibility for programmatic decisionmaking because it determines which types of cases it will refer to private attorneys and which it will refer to another provider. Fourth, as it acknowledges in the subgrant agreement, the subrecipient is responsible for adhering to applicable LSC program requirements specified in the award. Finally, the subrecipient will use the LSC funds to carry out legal assistance activities authorized by LSC's governing statutes and regulations, as opposed to providing goods or services for the benefit of the recipient.

**Example 2:** An LSC recipient provides an award to a web designer to develop an online portal for clients and other stakeholders to obtain general legal information about particular areas

of law, such as divorces and bankruptcies, as well as contact information for the legal services providers in the state. This award would not be a subgrant because it does not have most of the characteristics set forth in § 1627.3(b). The web designer does not determine eligibility to receive legal assistance under the recipient's LSC grant, nor does it have responsibility for programmatic ~~decisionmaking~~ decision making. The designer does not have its performance measured in relation to whether the recipient's objectives for providing legal services are met, and it is not required to adhere to the programmatic requirements set forth in the recipient's award from LSC. With respect to the fifth characteristic – that the subrecipient uses LSC funds to carry out a program for a public purpose specified in LSC's governing statutes and regulations, rather than providing goods or services for the recipient's benefit – there is room for debate about whether the web designer's work is for the public purpose of providing legal information to eligible clients, or is instead technical services provided for the benefit of the recipient. On balance, however, this type of award appears to be considered more appropriately as a procurement contract.

LSC reminds recipients that awards of LSC funds to third parties that do not meet the characteristics of subgrants, including procurements of services, must meet the applicable requirements of 45 CFR part 1630, as well as the Property Acquisition and Management Manual (PAMM).

Proposed paragraph (c) states that any award to a third party that is determined to be a subgrant based on an analysis of the factors in paragraph (b) must be supported using LSC funds. LSC has learned that some recipients have entered into agreements with other entities in which the recipients provided goods, including office space and office supplies, in exchange for the other entities' carrying out PAI activities on behalf of the recipient. The recipients in question

did not seek prior approval of these agreements because they were exchanges of goods and services, rather than funds; therefore, the recipients did not consider the arrangements to be subgrants subject to the requirements of part 1627.

As an organization responsible for disbursing and ensuring accountability for the use of appropriated public funds, LSC must be able to determine that any funds it awards are spent consistent with the terms of its governing statutes and regulations. It is difficult to ensure that goods and services, which may be purchased in whole or in part with LSC funds, transferred to a third party are used in a manner consistent with LSC's governing statutes. Ensuring the accountability of LSC-supported resources is particularly crucial when the resources are provided to a third party that conducts restricted activities in addition to the activities that it is carrying out on behalf of an LSC recipient. In order to ensure the proper use of LSC funds by any entity receiving those funds or resources supported by those funds, LSC believes that any arrangement qualifying as a subgrant under § 1627.3(b) must be paid for with actual funds and not with goods or services.

§ 1627.4 Requirements for all subgrants. LSC proposes to transfer existing § 1627.4, prohibiting the use of LSC funds to pay membership fees or dues, to part 1630. LSC proposes this transfer to limit the scope of part 1627 to subgrants and to move a provision pertaining to the allowability of costs to the part of LSC's regulations governing cost standards. To accommodate the inclusion of new § 1627.3, LSC proposes to restructure existing § 1627.3 and redesignate it as § 1627.4. LSC also proposes to revise the text of certain paragraphs to reflect changes to the grant approval process and the resulting changes to the subgrant approval process.

§ 1627.4(a) Corporation approval of subgrants. LSC proposes to revise paragraph (a) to tell recipients how to submit subgrant applications for approval. The process will vary based on

the type of grant—Basic Field or special—for which the recipient seeks to award a subgrant, and the time at which the recipient is seeking approval.

In paragraph (a)(1)(i), LSC proposes that recipients must submit applications for subgrants of Basic Field Grant funds at the same time as recipients submit their proposals for Basic Field Grant funding. This would consolidate the subgrant approval process with the main grant competition process. LSC also proposes to prescribe the format and substance of requests for subgrant approval annually through notice in the Federal Register. Finally, in paragraph (a)(1)(ii), LSC proposes to inform recipients of its decision to approve, disapprove, or suggest modifications to the proposed subgrants prior to or at the same time as it informs recipients of its decision whether to award Basic Field Grant funding.

In paragraph (a)(2), LSC proposes to formalize in regulation its current process for requesting and approving subgrants in its special grant programs. The application and award processes for special grants proceed on different schedules from the Basic Field Grant application and award process. LSC's special grant programs are all programs outside of Basic Field Grants—which include Basic Field-Migrant and Basic Field-Native American grants. TIG and the Pro Bono Innovation Fund (PBIF) grants are examples of special grants, as are disaster relief grants.

As described in proposed paragraph (a)(2)(i), recipients currently submit applications for approval of subgrants in special grant programs after LSC has awarded them grants. Because the special grant programs are highly competitive, LSC structured the process this way to avoid making recipients invest significant amounts of time in developing, finalizing, and executing subgrant agreements for projects that ultimately are not funded. To allow for flexibility in the form and substance of subgrant applications for the special grant programs, LSC also proposes in

this paragraph to publish the requirements for subgrant applications on its website and in the Federal Register on an annual basis.

In paragraph (a)(2)(ii), LSC proposes to adopt existing § 1627.3(a)(2) in substantial part. LSC proposes to require recipients to submit applications for subgrant approval at least 45 days prior to the start date of the subgrant. LSC will consider and make a decision to approve, disapprove, or suggest modifications to applications for approval. Recipients may resubmit for approval applications to which LSC suggested modifications or that LSC has disapproved. LSC proposes to omit the sentence deeming subgrants approved if LSC fails to make a decision on the subgrant application within the specified period of time. LSC is committed to making timely decisions on recipient requests for subgrant approval and does not believe the current policy is consistent with its responsibility to ensure that recipients spend their LSC funds efficiently and effectively.

Finally, LSC proposes to establish in § 1627.4(a)(3) a process for the submission and approval of subgrant applications during the grant period for both Basic Field and special grants. LSC recognizes that unanticipated situations, such as the need to terminate and replace an underperforming subrecipient, may cause a recipient to need approval of a subgrant during the grant period. For mid-grant subgrant applications, LSC proposes in paragraph (a)(3)(i) that recipients should submit an application, using the format prescribed by LSC on its website and in the Federal Register. Finally, LSC proposes to adopt the 45-day period for submission of applications established in paragraph (a)(2)(ii) of this section.

LSC proposes conforming changes to existing § 1627.3(a)(3), which will be relocated to § 1627.4(a)(4).

LSC proposes to delete existing § 1627.3(a)(4), which authorized the extension of subgrants that were being executed at the time part 1627 became effective in 1983. This rule is obsolete and should be removed from part 1627. Finally, LSC proposes to relocate existing § 1627.3(b)(3), which requires recipients to seek Corporation approval of any substantial changes in the scope, objectives, or funding amount of a subgrant, to § 1627.4(a)(5) without change. LSC proposes this change to place all requirements for Corporation approval of subgrant proposals or substantial changes within the same paragraph.

§ 1627.4(b) Duration of subgrant. LSC proposes to revise paragraph (b) to establish the maximum length of subgrant periods. For Basic Field grants, LSC proposes to limit subgrant periods to one year and to require recipients to submit a new application for each subgrant in each year of the Basic Field grant. For special grants, including TIG and PBIF grants, LSC proposes to allow the maximum subgrant period to match the period of the recipient's special grant.

Recipients of Basic Field grants must either compete for new grants or apply for renewal of their current grants annually. This schedule supports a conclusion that recipient's subgrants should likewise be reviewed annually to ensure that the subgrants comply with LSC's statutes and regulations, and that the subgrants represent an effective and efficient use of the recipient's LSC resources.

By contrast, special grants are for discrete, time-limited projects that may require recipients to engage the subrecipient for the life of the project in order to secure the subrecipient's participation. Additionally, LSC requires special grant recipients to report more frequently about their progress toward meeting project milestones or objectives. This increased reporting allows LSC to assess whether a recipient's subgrants are performing effectively and



efficiently throughout the grant period. Because reporting on the performance of a special grant, including the performance of subrecipients of special grant funds, occurs more frequently than once a year, it is not necessary for LSC to limit the maximum duration of a subgrant awarded as part of a special grant to one year.

For similar reasons, LSC proposes to treat subgrant funds remaining at the end of the grant year differently. In paragraph (b)(1), LSC proposes to retain the existing language stating that unexpended Basic Field subgrant funds will be considered part of the recipient's available LSC funds. In paragraph (b)(2), LSC proposes to require recipients to return funds remaining on a special grant program subgrant at the end of the grant term to LSC, unless the recipient requests and receives approval from the Corporation to retain such funds. This approach is consistent with the current terms of both the TIG and PBIF grant assurances, which allow recipients to ask LSC for approval to retain any funds that were awarded by LSC to carry out the project, but that were not spent because of lower costs or increased efficiencies in the operation of the project.

LSC proposes to redesignate existing § 1627.3(b)(2) as § 1627.4(b)(3) with revisions. The most substantive of the proposed revisions deletes the references to termination and denials of refunding as the exclusive events for which recipients should have procedures for the orderly termination of subgrants, and replaces them with general language that subgrants should terminate "in the event that the recipient is no longer an LSC recipient." LSC proposes adopting the general language to reflect that a recipient's policies governing the orderly termination of subgrants should apply in any instance where the recipient ceases to be an LSC recipient, including termination by LSC, voluntary termination by the recipient, or a failure to receive funding through competition. The other changes LSC proposes are editorial.

§ 1627.4(c) Recipient responsibilities. For ease of reference, LSC proposes to restructure and consolidate the paragraphs of existing § 1627.3 governing the recipient's particular oversight and repayment obligations into a new § 1627.4(c). Proposed paragraphs (c)(1) and (c)(2) adopt the first two sentences of existing § 1627.3(c) regarding recipients' duties to ensure that their subrecipients comply with LSC's financial and audit provisions and to ensure that their subrecipients properly spend, account for, and audit subgrant funds, respectively. LSC proposes to relocate existing § 1627.3(d), which requires a recipient to repay LSC for any disallowed expenditures of LSC funds incurred by a subrecipient, to paragraph (c)(3).

§ 1627.4(d) Accounting of funds. LSC proposes to restructure and consolidate the paragraphs of existing § 1627.3 governing the accounting of subgrant funds into a new § 1627.4(d). This paragraph states that subgrants of LSC funds are subject to the audit and financial requirements of the Audit and Accounting Guide for Recipients and Auditors. LSC proposes to delete the last two sentences in existing § 1627.3(c), which authorize recipients to enter into subgrant agreements that provide for an alternate auditing method. LSC is not aware that this provision has been used and proposes to remove it as unnecessary.

§ 1627.4(e) Oversight. LSC proposes to relocate existing § 1627.3(e) to new § 1627.4(e) with minor editorial changes.

§ 1627.5 Applicability of restrictions, timekeeping, and recipient priorities; private attorney involvement subgrants. LSC proposes to transfer existing § 1627.5, prohibiting the use of LSC funds to make contributions or gifts to other organizations or individuals, to part 1630. LSC proposes this transfer to limit the scope of part 1627 to subgrants and to move another provision pertaining to the allowability of costs to the part of LSC's regulations governing cost standards.

Additionally, because LSC has considered subgrants and transfers as functionally the same, LSC proposes to transfer 45 CFR 1610.7, the transfer rule, to part 1627 and redesignate it as § 1627.5. The restrictions listed in 45 CFR 1610.2—restrictions established by both the LSC Act and the FY96 appropriations act—will continue to apply to all subgrants. LSC proposes to make only minor edits to paragraphs (a) and (b) for clarity.

§ 1627.5(c) Timekeeping. LSC proposes to move the timekeeping requirement to its own paragraph and revise the requirement itself. Currently, § 1610.7(b)(2) requires only that recipients “maintain records of time spent on each case or matter undertaken with the funds transferred.” In the preamble to the 1997 final rule, LSC tied the timekeeping requirement to the language in Section 504(a)(10)(A) of the FY96 appropriations act, which prohibited LSC funds from being awarded to any person or entity unless “prior to receiving the financial assistance, such person or entity agrees to maintain records of time spent on each case or matter with respect to which the person or entity is engaged.” Sec. 504(a)(10)(A), Pub. L. 104-134, 110 Stat. 1321, 1321-54. LSC stated in the preamble that the rule did not require recipients “to keep time in accordance with the Corporation’s timekeeping regulation, 45 CFR part 1635,” but also did not provide guidance to recipients about the level of timekeeping that would be sufficient “to ensure accountability for [the transferred] funds.” 62 FR 27695, 27697, May 21, 1997. To further confuse matters, part 1614 states that “[i]f any direct or indirect time of staff attorneys or paralegals is to be allocated as a cost to PAI, such costs must be documented by time sheets accounting for the time those employees have spent on PAI activities.” 45 CFR 1614.7(a)(1).

LSC considered multiple options for creating coherent timekeeping requirements for recipients and subrecipients alike. LSC considered leaving the current language in place and adding language describing the minimum requirements for subrecipient timekeeping. Doing so

would allow recipients and subrecipients flexibility to develop timekeeping systems that would ensure accountability for expenditures of LSC funds, while minimizing the administrative burden to the subrecipient. LSC also considered making the part 1635 timekeeping requirements applicable to non-PAI subgrants and the part 1614 timekeeping requirements applicable to PAI subgrants. This option would be consistent with the way in which LSC's regulations direct recipients to document time spent on the recipients' non-PAI and PAI activities, respectively.

LSC ultimately chose to propose a requirement that all subrecipients comply with the part 1635 timekeeping requirements for all LSC-funded subgrant activities. LSC chose this option for three reasons. First, LSC learned that some recipients have interpreted § 1610.7(b)(2) as not requiring subrecipients to keep time records. This interpretation is incorrect. Section 1610.7(b)(2) clearly states that subrecipients "are required to maintain records of time spent on each case or matter undertaken" with LSC funds, although LSC also stated in the preamble to the 1997 final rule for part 1610 that subrecipients did not have "to keep time in accordance with the Corporation's timekeeping regulation, 45 CFR part 1635." 62 FR 27695, 27697, May 21, 1997. Second, LSC's experience overseeing subgrants over the eighteen years since LSC revised § 1610.7 has given LSC reason to believe that clear timekeeping requirements for subgrants will lead to increased accountability for the use of LSC funds by subrecipients. Finally, LSC believes that having three distinct timekeeping requirements creates unnecessary confusion about which requirements apply to which uses of LSC funds. LSC's proposal will make the timekeeping provisions of parts 1627 and 1635 consistent and will reflect the methods that recipients use to document time charged to their LSC grants.

LSC understands that some subrecipients may be small organizations that currently do not have, or may find it difficult to develop, the capacity to maintain timekeeping records that

comply with part 1635. For that reason, LSC specifically seeks comment on the proposal to require all subrecipients to comply with the timekeeping requirements of part 1635.

§ 1627.5(d) PAI subgrants. LSC proposes to redesignate existing § 1610.7(c) as § 1627.5(d) and to make editorial changes to the paragraph for clarity. LSC also proposes to adopt a new paragraph (d)(2) stating that, with respect to PAI subgrants, all funds that a recipient uses to support the subgrant are deemed to be LSC funds for purposes of the restrictions listed in 45 CFR 1610.2. LSC requires its recipients to expend an amount equal to at least 12.5% of its LSC grant to PAI activities. See 45 CFR 1614.1(a). This language gives recipients discretion about whether they spend entirely LSC funds, entirely non-LSC funds, or some combination of the two, on PAI activities. The reason for the proposed paragraph is to put in the regulation the analysis reflected in AO-2009-1004 that activities carried out as part of a recipient's PAI program, regardless of the source of funds, must be consistent with LSC's governing statutes and regulations. See Advisory Opinion AO-2009-1004, at 3-4, June 19, 2009.

§ 1627.6 Subgrants to other recipients. LSC proposes to make only non-substantive editorial changes to this section.

§ 1627.7 Recipient policies, procedures, and recordkeeping. LSC proposes to transfer existing § 1627.7, regarding recipient payments to tax-sheltered annuities, retirement accounts, and pensions, to part 1630. LSC proposes this transfer to limit the scope of part 1627 to subgrants and to move the final provision in part 1627 pertaining to the allowability of costs to the part of LSC's regulations governing cost standards. LSC proposes to redesignate existing § 1627.8 as § 1627.7 without revision.

B. Proposed Changes to Part 1610.

§ 1610.2 Definitions. LSC proposes to eliminate the term transfer and replace it with the term subgrant, as defined in § 1627.2(d). LSC intended the current definition of transfer to mirror the definition of subgrant, but it does not. The slight differences between the two definitions have caused confusion about whether the terms are coextensive. LSC has treated the terms as functionally equivalent since it enacted § 1610.7 in 1997. LSC's proposed change will eliminate ambiguity by combining the two concepts into one term. The proposed change will not affect the current order of definitions in § 1610.2. If this change becomes final, LSC will need to amend § 1610.8(a)(2) to conform with the change.

§ 1610.7 Transfers of LSC funds. As described more fully above, LSC proposes to transfer this section to part 1627 because it governs the application of the LSC Act and FY96 appropriations act restrictions listed in § 1610.2 to a subrecipient's LSC and non-LSC funds. LSC believes that because § 1610.7 effectively applies to subgrants, it should be located in part 1627 with the rest of the subgrant rules. Should this proposed change become final, LSC will need to redesignate existing §§ 1610.8 and 1610.9 to reflect the removal of § 1610.7.

C. Proposed Changes to Part 1630. In the interest of making its regulations easier to use, LSC proposes to limit the scope of part 1627 to provisions applicable to subgrants. Three provisions of part 1627 are not related to subgrants, but instead proscribe the use of LSC funds to pay membership fees or dues (§ 1627.4) or to make contributions to other entities or individuals (§ 1627.5), or allow recipients to make certain benefits contributions on behalf of its employees (§ 1627.7). LSC proposes to transfer these three provisions to part 1630, which establishes

LSC's cost standards. LSC proposes to redesignate these provisions as §§ 1630.14-16. LSC does not propose to revise the text of these provisions at this time.

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

## **PART 1627 – SUBGRANTS AND MEMBERSHIP FEES OR DUES**

Authority: 42 U.S.C. 2996g(e).

Sec.

- 1627.1 Purpose.
- 1627.2 Definitions.
- 1627.3 Characteristics of subgrants.
- 1627.4 Requirements for all subgrants.
- 1627.5 Applicability of restrictions, timekeeping, and recipient priorities; private attorney involvement subgrants.
- 1627.6 Transfers to other recipients.
- 1627.7 Recipient policies, procedures and recordkeeping.

### **§ 1627.1 Purpose.**

The purpose of this part is to establish the requirements for subgrants of LSC funds from recipients to third parties to assist in the recipient's provision of legal assistance to eligible clients.

### **§ 1627.2 Definitions.**

- (a) Private attorney has the meaning given that term in 45 CFR 1614.3(i).
- (b) Programmatic means activities or functions carried out to provide legal assistance, as defined in § 1002 of the LSC Act, 42 U.S.C. 2996a(5). Programmatic activities do not include the provision of goods or services by vendors or consultants in the normal course of business that the recipient would not be expected to provide itself.

(c) Recipient as used in this part means any recipient as defined in section 1002(6) of the Act and any grantee or contractor receiving funds from LSC under section 1006(a)(1)(B) of the Act.

(d)(1) Subgrant means an award of LSC funds provided by a recipient to a subrecipient for the subrecipient to carry out part of the recipient's programmatic activities.

(2) Except for judicare arrangements and contracts with private attorneys for the direct delivery of legal assistance under 45 C.F.R. Part 1614 that exceed \$25,000, subgrant does not include activities that are covered by a fee-for-service arrangement.

(e) Subrecipient means any entity receiving a subgrant. A single entity may be a subrecipient with respect to some activities it conducts for a recipient while not being a subrecipient with respect to other activities it conducts for a recipient.

### **§ 1627.3 Characteristics of subgrants.**

(a) In determining whether an agreement between a recipient and another entity should be considered a subgrant or a procurement contract, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed below may not be present in all cases, and the recipient must use judgment in classifying each agreement as a subgrant or a procurement contract.

(b) An award from a recipient to another entity will be considered a subgrant when the entity:

- (1) Determines who is eligible to receive legal assistance under the recipient's LSC grant;
- (2) Has its performance measured in relation to whether programmatic objectives of the LSC grant were met;
- (3) Has responsibility for programmatic ~~decisionmaking~~ decision making;



(4) Is responsible for adherence to applicable LSC program requirements specified in the LSC grant award; and

(5) In accordance with its agreement, uses the LSC funds to carry out a program for a public purpose specified in LSC's governing statutes and regulations, as opposed to providing goods or services for the benefit of the recipient.

(c) Any award to a third party that is determined to be a subgrant based on an analysis of these factors must be supported using LSC funds. Recipients may not use goods and services paid for in whole or in part with LSC funds as payment for a subgrant.

**§ 1627.4 Requirements for all subgrants.**

(a) LSC approval of subgrants. Recipients must submit all applications for subgrants to LSC in writing for prior written approval.

(1) Basic Field Grants. (i) Recipients should submit applications for subgrants of Basic Field Grant funds along with the recipient's proposal for funding, including applications for renewals of funding. LSC will publish the requirements concerning the format and contents of the application annually in the Federal Register and on LSC's website.

(ii) LSC will notify a recipient of its decision to approve, disapprove, or suggest modifications to an application for subgrant approval prior to, or at the same time as LSC provides notice of its decision with respect to the applicant's proposal for Basic Field Grant funding.

(2) Special grants. (i) Recipients of special grants (e.g., Technology Initiative Grants, Pro Bono Innovation Fund grants, disaster assistance grants), should submit their subgrant applications following notification of approval of special grant funds. LSC will publish the

requirements concerning the format and contents of the application annually in the Federal Register and on LSC's website.

(ii) A subgrant application must be submitted at least 45 days in advance of its proposed effective date. LSC will notify the recipient in writing of its decision to approve, disapprove, or suggest modifications to the subgrant. A subgrant that is disapproved or to which LSC has suggested modifications may be resubmitted for approval.

(3) Subgrant approval requests during the grant period. A recipient may apply for prior approval of a subgrant outside of the periods prescribed in paragraphs (a)(1) and (a)(2) of this section as needed. LSC will publish the requirements concerning the format and contents of the application annually in the Federal Register and on LSC's website. LSC will follow the time periods prescribed in paragraph (a)(2)(ii) of this section to consider and notify a recipient of its decision to approve, disapprove, or suggest modifications to the subgrant.

(4) Any subgrant not approved according to paragraphs (a)(1)-(3) of this section will be subject to disallowance and recovery of all funds expended under the subgrant.

(5) A recipient must obtain LSC approval of any substantial change in the scope or objectives of a subgrant or an increase or decrease in the funding amount of more than 10%. Minor changes in the scope or objectives or changes in funding of less than 10% do not require prior approval, but the recipient must notify LSC of such changes in writing.

(b) Duration of subgrant. (1) For Basic Field grants, a subgrant may not be for a period longer than one year. All funds unexpended at the end of the subgrant period will be considered part of the recipient's available LSC funds.

(2) For special grants (e.g., Pro Bono Innovation Fund grants, Technology Initiative Grants, disaster assistance grants), a subgrant may not be for a period longer than the term of the

grant. Absent written approval from LSC, all unexpended funds must be returned to LSC at the end of the subgrant period.

(3) All subgrants must contain provisions for their orderly termination in the event that the recipient is no longer an LSC recipient, and for suspension of activities if the recipient's funding is suspended.

(c) Recipient responsibilities. (1) Recipients must ensure that subrecipients comply with LSC's financial and audit provisions.

(2) The recipient must ensure that the subrecipient properly spends, accounts for, and audits funds received through the subgrant.

(3) The recipient must repay LSC for any disallowed expenditures by a subrecipient. Repayment is required regardless of whether the recipient is able to recover such expenditures from the subrecipient.

(d) Accounting of funds. Any LSC funds paid by a recipient to a subrecipient through a subgrant are subject to the audit and financial requirements of the Audit Guide for Recipients and Auditors and the Accounting Guide for LSC Recipients. Subgranted funds may be separately disclosed and accounted for, and reported upon in the audited financial statements of a recipient; or such funds may be included in a separate audit report of the subrecipient. The relationship between the recipient and subrecipient will determine the proper method of financial reporting following generally accepted accounting principles.

(e) Oversight. To ensure subrecipient compliance with the LSC Act, LSC's appropriations statutes, Congressional restrictions having the force of law, and LSC's regulations, guidelines, and instructions, agreements between a recipient and a subrecipient must provide the same oversight rights for LSC with respect to subrecipients as apply to subrecipients.

**§ 1627.5 Applicability of restrictions, timekeeping, and recipient priorities; private attorney involvement subgrants.**

(a) Applicability of restrictions. The prohibitions and requirements set forth in 45 CFR part 1610 apply both to the subgrant and to the subrecipient's non-LSC funds, except as modified by paragraphs (b), (c), and (d) of this section.

(b) Priorities. Subrecipients must either:

- (1) Use the subgrant consistent with the recipient's priorities; or
- (2) Establish their own priorities for the use of the subgrant consistent with 45 CFR part 1620;

(c) Timekeeping. Subrecipients must comply with 45 CFR part 1635 regarding timekeeping for all LSC-funded subgrant activities.

(d) PAI subgrant. (1) The prohibitions and requirements set forth in 45 CFR part 1610 apply *only* to the subgrant, when the subrecipient is a bar association, *pro bono* program, private attorney or law firm, or other entity that receives a subgrant for the sole purpose of funding private attorney involvement activities (PAI) pursuant to 45 CFR part 1614.

(2) Any funds used by a recipient as payment for a PAI subgrant are deemed LSC funds for purposes of this paragraph.

**§ 1627.6 Subgrants to other recipients.**

(a) The requirements of § 1627.4 apply to all subgrants from one recipient to another recipient.

(b) The subrecipient must audit any funds provided by the recipient under a subgrant in its annual audit and supply a copy of this audit to the recipient. The recipient must either submit

the relevant part of this audit with its next annual audit or, if an audit has been recently submitted, submit it as an addendum to that recently submitted audit.

(c) In addition to the provisions of § 1627.4(c)(3), LSC may hold the recipient responsible for any disallowed expenditures of subgrant funds. Thus, LSC may recover all of the disallowed costs from either the recipient or the subrecipient or may divide the recovery between the two. LSC's total recovery may not exceed the amount of expenditures disallowed.

(d) Funds received by a recipient from other recipients in the form of fees and dues shall be accounted for and included in the annual audit of the recipient receiving these funds as Corporation funds.

**§ 1627.7 Recipient policies, procedures and recordkeeping.**

Each recipient must adopt written policies and procedures to guide its staff in complying with this part and must maintain records sufficient to document the recipient's compliance with this part.

**Notice of Proposed Rulemaking**  
**Code of Federal Regulations 45**  
**Part 1628**



OFFICE OF LEGAL AFFAIRS

**TO:** Operations and Regulations Committee

**FROM:** Ronald S. Flagg, General Counsel and Vice President for Legal Affairs  
Stefanie K. Davis, Assistant General Counsel  
Peter Karalis, Office of Legal Affairs Graduate Fellow

**DATE:** March 24, 2015

**SUBJECT:** Rulemaking Options Paper: 45 C.F.R. Part 1628: Recipient Fund Balances

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This Rulemaking Options Paper (ROP) sets forth options and recommendations regarding revisions to 45 C.F.R. Part 1628. Part 1628 governs the ability of recipients to request, and the Corporation's discretion to grant, waivers to retain LSC fund balances that remain unused at the end of the fiscal year. This ROP summarizes the regulatory history of part 1628 and the impetus of this proposed rulemaking. It next proposes several alternatives for addressing each of the issues identified as appropriate for rulemaking. Finally, the ROP presents LSC management's recommendations as to the substance of and process for implementing the revisions.

## **I. Summary of Management Recommendation**

Management recommends that the Operations and Regulations Committee (Committee) authorize rulemaking and approve publication of the attached Notice of Proposed Rulemaking (NPRM) to amend part 1628 of the LSC regulations. As explained more fully below, the proposed rule would provide the Corporation with more discretion to grant a recipient's request for a waiver to retain a fund balance in excess of 25% of its annual LSC support. It would also allow recipients to submit a waiver request to retain a fund balance in excess of 25% of their annual LSC support prior to the submission of their annual audited financial statements.

## **II. Background**

LSC issued its first instruction on recipient fund balances in 1983 to implement what is now the Corporation's longstanding objective of ensuring the timely expenditure of LSC funds for the effective and economical provision of high quality legal assistance to eligible clients. 48 Fed. Reg. 560, 561 (Jan. 5, 1983). Later that year, LSC published a redrafted version titled Instruction 83-4, Recipient Fund Balances ("Instruction"). 48 Fed. Reg. 49710, 49711 (Oct. 27, 1983). The Instruction limited the ability of recipients

to carry over LSC funds that remained unused at the end of the fiscal year. Id. Specifically, the Instruction provided that, in the absence of a waiver granted by the Corporation, a recipient's end-of-year fund balance in excess of 10% of its total annual LSC support must be repaid to LSC. Id. The Instruction also prohibited a recipient from ever retaining a fund balance in excess of 25% of its annual support, thereby limiting the Corporation's waiver granting authority to fund balance amounts of 25% or less of a recipient's annual support. Id.

In 1984, LSC substantially adopted the Instruction in a regulation published at 45 C.F.R. Part 1628. 49 Fed. Reg. 21331 (May 21, 1984). Part 1628 remained unchanged until 2000, when LSC promulgated revisions in response to public comments and staff advice indicating that the rule was "more strict" than the fund balance requirements of most federal agencies. 65 Fed. Reg. 66637, 66638 (Nov. 7, 2000). The revisions provided the Corporation with more discretion to grant a recipient's request for a waiver to retain a fund balance of up to 25% of its annual support. Id. at 66637. In addition, for the first time, the rule authorized the Corporation to exercise its discretion to grant a recipient's request for a waiver to retain a fund balance in excess of 25% of its annual support. Id. The Corporation reasoned that, by allowing for waivers to retain that amount, "[t]he recipient can better plan and find the best use for the funds, rather than being forced into a hasty expenditure simply to avoid the limitation on the carryover of fund balances." Id. at 66640. The rule, however, limited the situations justifying a recipient's request to retain more than 25% of its annual support to "three specific circumstances when extraordinary and compelling reasons exist for such a waiver," currently listed in § 1628.3(c). Id. at 66638. These extraordinary and compelling circumstances were restricted to the following situations when a recipient received income derived from its use of LSC funds: "(1) An insurance reimbursement; (2) the sale of real property; and (3) the receipt of monies from a lawsuit in which the recipient was a party." Id. at 66639. Although the Committee "considered using a standard of 'extraordinary and compelling' for these waivers with the three specific circumstances discussed as examples," it ultimately decided "that more guidance was required to avoid erosion of the standard," and the three circumstances became exclusive limitations, not mere examples. Id. at 66640. The LSC Board of Directors (Board) adopted the revisions to part 1628 on November 20, 1999, and the revised rule has been in effect since December 7, 2000. Id. at 66637-38.

During the nearly 15-year period since part 1628 was last revised, LSC grantees have experienced various unexpected occurrences outside of those listed in § 1628.3(c) that caused them to accrue fund balances in excess of 25% of their annual support. These occurrences have included an end-of-year transfer of assets from a former grantee to a



current grantee, a natural disaster that resulted in a significant infusion of use-or-lose disaster relief funds from non-LSC sources, and receipt of a large attorneys' fees award in an LSC-funded case near the end of the fiscal year. In each of these situations, LSC determined that part 1628 currently prevents some recipients with legitimate reasons for having fund balances exceeding 25% of their annual LSC support from seeking and obtaining needed waivers. On January 22, 2015, LSC staff presented the Committee with a proposal to consider revising part 1628 to address the difficulties faced by recipients that encounter these types of occurrences yet are unable to justify a waiver request to retain a balance in excess of 25% of their annual support under the current standards. The Committee authorized LSC management to add the matter to the Committee's rulemaking agenda so that it may address this issue. In addition, the Committee suggested that LSC consider whether the rule's 10% and 25% caps on fund balance carryovers are still appropriate in light of the most recently available data on waiver requests.

### **III. Options**

We have identified three areas for revision within part 1628: 1) the extraordinary and compelling circumstances listed in § 1628.3(c); 2) the ability of recipients to submit a waiver request prior to the submission of their audited financial statements; and 3) the current 10% and 25% caps on fund balance carryover amounts. The options for each potential area of revision are discussed in detail below.

#### **A. 45 C.F.R. § 1628.3(c) – Extraordinary and Compelling Circumstances**

##### **1. Option 1 – No Amendment to the Current Regulation**

The Committee could elect to make no changes to the current § 1628.3(c). Under this option, the list of extraordinary and compelling circumstances would remain limited to three situations where a recipient receives an infusion of income derived from the recipient's prior use of LSC funds. Recipients that receive sudden and unexpected infusions of non-derivative, use-or-lose income would continue to be restricted by the 25% cap on waiver requests to retain excess fund balances, as would recipients that are rendered incapable of expending their available LSC funds due a natural disaster or other catastrophic event.

## **2. Option 2 – Revise § 1628.3(c) to Include Additional Situations that Constitute Extraordinary and Compelling Circumstances**

This option would expand the list of extraordinary and compelling circumstances justifying a recipient’s waiver request to retain a fund balance in excess of 25% of its annual support, but such circumstances would still be limited to the ones listed in the regulation.

### ***a. Proposed Rule Text***

§ 1628.3 Policy

\* \* \* \* \*

(c) Recipients may request a waiver to retain a fund balance in excess of 25% of a recipient’s LSC support only for the following extraordinary and compelling circumstances: when a natural disaster or other catastrophic event prevents the timely expenditure of LSC funds, or when the recipient receives an insurance reimbursement, the proceeds from the sale of real property, or a payment from a lawsuit in which the recipient was a party, or a payment from an LSC-funded lawsuit, regardless of whether the recipient was a party to the lawsuit.

### ***b. Considerations***

Under this option, § 1628.3(c) would prescribe additional types of extraordinary and compelling circumstances that may justify a recipient’s request to carry over a fund balance in excess of 25% of its annual support to the next fiscal year. The additional circumstances are based on actual situations that recipients have encountered since the rule was last revised. This option allows grantees to devise more organized and efficient spending plans when faced with unexpected events that are not listed in current § 1628.3(c). Providing recipients with sufficient time to plan for the expenditure of unused funds in excess of 25% of their annual support would also advance the Corporation’s objective of ensuring the effective and economical provision of high quality legal assistance to eligible clients.

On the other hand, this option maintains the same restrictive language of current section 1628.3(c), as it allows recipients to request a waiver only for the circumstances expressly listed in the provision. If a recipient were to encounter an extraordinary circumstance that fell outside the circumstances enumerated in § 1628.3(c), much like the unexpected scenarios that recipients have experienced over the past 15 years, no waiver would be available.

**3. Option 3 – Revise § 1628.3(c) to Eliminate the Language Limiting Extraordinary and Compelling Circumstances to Those Listed and Include Additional Examples of Such Circumstances**

This option would provide an illustrative list of extraordinary and compelling circumstances justifying a recipient’s waiver request to retain a fund balance in excess of 25% of its annual support.

*a. Proposed Rule Text*

§ 1628.3 Policy

\* \* \* \* \*

(c) Recipients may request a waiver to retain a fund balance in excess of 25% of a recipient’s LSC support only for ~~the following~~ extraordinary and compelling circumstances, such as when a natural disaster or other catastrophic event prevents the timely expenditure of LSC funds, or when the recipient receives an insurance reimbursement, the proceeds from the sale of real property, or a payment from a lawsuit in which the recipient was a party, or a payment from an LSC-funded lawsuit, regardless of whether the recipient was a party to the lawsuit.

*b. Considerations*

This option adds the same additional types of extraordinary and compelling circumstances as Option 2. Unlike Option 2, however, this option transforms the current, limited list of circumstances into a set of examples. It provides the Corporation with discretion to consider whether a situation that causes a recipient to accrue a fund balance in excess of 25% of its annual support constitutes an extraordinary and compelling circumstance justifying a waiver. Under this option, recipients that encounter unforeseeable situations could avoid having to make the difficult choice between returning a large portion of an unused balance and hurriedly spending funds before the end of the fiscal year.

**4. Option 4 – Revise § 1628.3(c) to Eliminate the Language Limiting Extraordinary and Compelling Circumstances to Those Listed, Include Additional Examples of Such Circumstances, and Require Notice to the LSC Board of Any Decision to Grant a Waiver in Excess of 25% of Support**

This option would revise § 1628.3(c) exactly in the same way as Option 3, but would add a new section 1628.4(f) requiring LSC management to provide notice to the LSC Board of any decision to grant a waiver in excess of 25% of a recipient’s annual support.

**a. Proposed Rule Text**

§ 1628.3 Policy

\* \* \* \* \*

(c) Recipients may request a waiver to retain a fund balance in excess of 25% of a recipient's LSC support only for ~~the following~~ extraordinary and compelling circumstances, such as when a natural disaster or other catastrophic event prevents the timely expenditure of LSC funds, or when the recipient receives an insurance reimbursement, the proceeds from the sale of real property, or a payment from a lawsuit in which the recipient was a party, or a payment from an LSC-funded lawsuit, regardless of whether the recipient was a party to the lawsuit.

§ 1628.4 Procedures

\* \* \* \* \*

(f) Prior to granting a waiver to retain a fund balance in excess of 25% of a recipient's LSC support pursuant to a request made under § 1628.3(c), the Corporation will provide 14 days' written notice of its intention to grant the waiver to the Board.

**b. Considerations**

This option incorporates the same language in § 1628.3(c) as Option 3. It would change the current, limited list of extraordinary and compelling circumstances into examples. This change would provide the Corporation with discretion to consider whether a situation that is not expressly listed in the rule constitutes an extraordinary and compelling circumstance. This option tempers this expanded discretion by requiring LSC management to provide 14 days' notice to the Board whenever management decides to grant a recipient's waiver request to retain a fund balance in excess of 25% of annual support.

There are two reasons why requiring LSC management to provide notice to the Board may be unnecessary. First, the Corporation is not proposing to lower the standard for granting waivers to retain a fund balance in excess of 25% of annual support, and anticipates that recipients will continue to seek such waivers only in situations where they experience extreme circumstances. Second, the granting of LSC funding and exercising discretion with regard to carryover, suspension or termination of such funding has been and remains a management, not a Board, function. The Corporation will continue to exercise its discretion with the same good faith and fidelity to its objective of ensuring the timely expenditure of LSC funds as it has done since part 1628 was last revised nearly 15 years ago.

**B. 45 C.F.R. § 1628.4 – Timing of Recipient Waiver Request Submissions**

**1. Option 1 – No Amendment to the Current Regulation**

The Committee could elect to make no changes regarding when a recipient may submit a waiver request. Section 1628.4(a) currently provides that a recipient may request a waiver within 30 days of the submission of its audited financial statements. The preamble to the 2000 rule, however, provides that “[t]his rule does not preclude the recipient’s request for a Corporation action on a waiver prior to the close of the fiscal year, it simply does not require the Corporation to provide for advance approval.” 65 Fed. Reg. 66637, 66640 (Nov. 7, 2000).

**2. Option 2 – Revise § 1628.4 to Allow All Recipients to Submit a Waiver Request to Retain a Fund Balance in Excess of 10% of Their Annual Support Prior to the Submission of Their Audited Financial Statements**

This option would add a new § 1628.4(d) to expressly allow recipients that face extraordinary and compelling circumstances to submit a waiver request to retain a fund balance in excess of 10% of their annual support prior to the submission of their annual audited financial statements.

***a. Proposed Rule Text***

§ 1628.4 Procedures

\* \* \* \* \*

(d) A recipient may submit a waiver request to retain a fund balance in excess of 10% of its LSC support prior to the submission of its audited financial statements. The Corporation may, at its discretion, provide approval in writing. The request shall specify the special circumstances justifying the retention of the excess fund balance up to 25%, or the extraordinary and compelling circumstances justifying the fund balance in excess of 25%; the estimated fund balance that the recipient anticipates it will accrue by the time of the submission of its audited financial statements; and the recipient’s plan for disposing of the excess fund balance. Upon the submission of its annual audited financial statements, the recipient must submit updated information consistent with the requirements of paragraph (a) of this section to confirm the actual fund balance to be retained.

***b. Considerations***

This option would allow grantees to seek assurance that they will not have to return or spend a large portion of excess LSC funds by the end of the fiscal year, thereby enabling them to

plan for the following fiscal year with greater certainty. This option would also require recipients that receive approval of a waiver request prior to submitting their audited financial statements to submit updated information consistent with the requirements of § 1628.4(a) after the submission of their audited financial statements as confirmation of the actual amount to be retained.

Permitting approvals of waiver requests to retain a fund balance in excess of 10% annual support prior to the submission of recipients' annual audited financial statements may result in a significantly larger workload for LSC staff. Furthermore, the benefits of receiving an early approval of a waiver request are arguably far greater for recipients that experience extraordinary and compelling circumstances resulting in a fund balance in excess of 25% of annual support than for recipients that experience a lesser increase in fund balances because of other special situations. Therefore, the overall benefits of allowing any recipient with a fund balance that does not exceed 25% of its annual support to submit an early waiver request may not justify the potential increase in workload for LSC.

**3. Option 3 – Revise § 1628.4 to Allow Recipients That Experience Extraordinary and Compelling Circumstances to Submit a Waiver Request to Retain a Fund Balance in Excess of 25% of Their Annual Support Prior to the Submission of Their Audited Financial Statements**

This option would add a new § 1628.4(d) with essentially the same language as Option 2, except that it would limit early approvals to recipients with fund balances that exceed of 25% of their annual support.

*a. Proposed Rule Text*

§ 1628.4 Procedures

\* \* \* \* \*

(d) A recipient may submit a waiver request to retain a fund balance in excess of 25% of its LSC support prior to the submission of its audited financial statements. The Corporation may, at its discretion, provide approval in writing. The request shall specify the extraordinary and compelling circumstances justifying the fund balance in excess of 25%; the estimated fund balance that the recipient anticipates it will accrue by the time of the submission of its audited financial statements; and the recipient's plan for disposing of the excess fund balance. Upon the submission of its annual audited financial statements, the recipient must submit updated information consistent with the requirements of paragraph (a) of this section to confirm the actual fund balance to be retained.

### ***b. Considerations***

This option provides the same benefits as Option 3, except that it allows only recipients with a fund balance in excess of 25% of their annual support to submit a waiver request prior to the submission of annual audited financial statements. Limiting early approvals to waiver requests to retain fund balances in excess of 25% of annual support would be appropriate in light of the unique and significant burdens on financial planning faced by recipients that experience extraordinary and compelling circumstances. It would also be consistent with this rulemaking's primary objective of alleviating the special concerns of such recipients.

### **C. Percentage Caps on Fund Balance Carryover Amounts**

Pursuant to the Committee's request, the Corporation considered whether the rule's 10% and 25% caps on fund balance carryover amounts should be adjusted in accordance with recent trends in waiver requests. LSC's Office of Compliance and Enforcement (OCE) provided LSC staff with statistics on waiver requests that have been submitted to the Corporation over the last six years. After analyzing the data, LSC decided as a policy matter that the respective percentage caps are set at the appropriate levels. According to the statistics, the average annual number of waiver requests to retain a fund balance that exceeds 10% of a recipient's LSC support is easily manageable by OCE. Furthermore, waiver requests to retain a balance in excess of 25% of LSC support are exceedingly rare, and the Corporation does not expect a significantly greater number of such requests if the proposed revisions to part 1628 are adopted. LSC believes that the current percentage caps on carryover amounts are necessary to ensure that recipients are spending their grants on providing legal services, while offering an appropriate amount of flexibility to retain unused fund balances.

## **IV. Procedure**

Should the Committee approve rulemaking, there are two options for revising part 1628. First, the Committee could engage in notice and comment rulemaking, with or without workshops. If the Committee chooses this option, it would also need to determine the length of the public comment period following the issuance of an NPRM. Second, the Committee could authorize negotiated rulemaking.

## **V. Management Recommendation**

### **A. Substance**

#### **1. 1628.3(c) Extraordinary and Compelling Circumstances**

Management recommends Option 3, revising § 1628.3(c) to eliminate the language limiting extraordinary and compelling circumstances to only those listed in the provision and including additional examples of such circumstances. This change will allow recipients that encounter unexpected events that are not covered by the existing rule to avoid having to choose between returning large portions of unused fund balances and rushing to expend funds before the end of the fiscal year. Under this option, LSC management will not be required to notify the LSC Board whenever management decides to grant a recipient's waiver request to retain a fund balance in excess of 25% of annual support. A notice requirement is unnecessary because, although LSC will have discretion to determine whether a recipient's circumstance is truly extraordinary and compelling, the Corporation is not lowering the standard for granting waivers to retain a fund balance in excess of 25% of annual support, and recipients will therefore continue to seek such waivers only in extreme circumstances. Furthermore, the granting of LSC funding and exercising discretion with regard to carryover, suspension or termination of such funding has been and remains a management, not a Board, function.

#### **2. 1628.4(a) Timing of Recipient Waiver Request Submissions**

Management recommends Option 3, revising § 1628.4 to allow recipients that experience extraordinary and compelling circumstances to submit a waiver request to retain a fund balance in excess of 25% of their annual support prior to the submission of their audited financial statements. This change will benefit grantees that accrue exceptionally large fund balances by allowing them to request assurance that they will not have to return or spend a large portion of excess LSC funds by the end of the fiscal year. This change will also be consistent with this rulemaking's primary objective of alleviating issues faced by recipients that face extraordinary and compelling circumstances causing them to accrue fund balances in excess of 25% of their annual support.

#### **3. Percentage Caps on Fund Balance Carryover Amounts**

Management recommends maintaining the rule's 10% and 25% caps on fund balance carryover amounts. The Corporation proposes to seek comment on the matter.



## **B. Process**

Management recommends amending part 1628 through notice and comment rulemaking. Management does not believe that rulemaking workshops are necessary, given the limited nature of the proposed changes. A draft NPRM based on Management's recommendations is attached for the Committee's consideration. Depending on the Committee's response to the draft NPRM, the Committee could approve the draft NPRM (or a revised NPRM) at its April 2015 meeting or at a subsequent meeting.

The LSC Act requires that LSC afford interested parties at least thirty days to comment on any proposed rule before the rule becomes effective. 42 U.S.C. § 2996g(e). Because the changes to the rule are not complex and OLA does not expect the changes to be controversial, OLA recommends that the Committee approve a thirty-day comment period for the proposed rule. After the public comment period has ended, OLA will review and analyze comments received. Based on the nature of the comments received, LSC will draft either a final rule or a supplemental NPRM for the Committee's consideration at a later date.

## **LEGAL SERVICES CORPORATION**

### **45 CFR Part 1628**

#### **Recipient Fund Balances**

**AGENCY:** Legal Services Corporation

**ACTION:** Notice of proposed rulemaking

**SUMMARY:** This proposed rule would revise the Legal Services Corporation (LSC or Corporation) regulation on recipient fund balances to provide the Corporation with more discretion to grant a recipient's request for a waiver to retain a fund balance in excess of 25% of its annual LSC support. This proposed rule would also provide that recipients that face extraordinary and compelling circumstances may submit a waiver request to retain a fund balance in excess of 25% of their annual LSC support prior to the submission of their annual audited financial statements.

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

**ADDRESSES:** You may submit comments by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: [lscrulemaking@lsc.gov](mailto:lscrulemaking@lsc.gov). Include "Comments on Revisions to Part 1628" in the subject line of the message.
- Fax: (202) 337-6519.
- Mail: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW, Washington, DC 20007, ATTN: Part 1628 Rulemaking.

- Hand Delivery/Courier: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW, Washington, DC 20007, ATTN: Part 1628 Rulemaking.

*Instructions:* 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), or [sdavis@lsc.gov](mailto:sdavis@lsc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Regulatory Background**

LSC issued its first instruction on recipient fund balances in 1983 to implement what is now the Corporation's longstanding objective of ensuring the timely expenditure of LSC funds for the effective and economical provision of high quality legal assistance to eligible clients. 48 FR 560, 561, Jan. 5, 1983. Later that year, LSC published a redrafted version titled Instruction 83-4, Recipient Fund Balances ("Instruction"). 48 FR 49710, 49711, Oct. 27, 1983. The Instruction limited the ability of recipients to carry over LSC funds that remained unused at the end of the fiscal year. *Id.* Specifically, the Instruction provided that, in the absence of a waiver granted by the Corporation, a recipient's end-of-year fund balance in excess of 10% of its total annual LSC support must be repaid to LSC. *Id.* The Instruction also prohibited a recipient from ever retaining a fund balance in excess of 25% of its annual support, thereby limiting the Corporation's waiver granting authority to fund balance amounts of 25% or less of a recipient's annual support. *Id.*

In 1984, LSC substantially adopted the Instruction in a regulation published at 45 CFR part 1628. 49 FR 21331, May 21, 1984. Part 1628 remained unchanged until 2000, when LSC promulgated revisions in response to public comments and staff advice indicating that the rule was “more strict” than the fund balance requirements of most federal agencies. 65 FR 66637, 66638, Nov. 7, 2000. The revisions provided the Corporation with more discretion to grant a recipient’s request for a waiver to retain a fund balance of up to 25% of its annual support. Id. at 66637. In addition, for the first time, the rule authorized the Corporation to exercise its discretion to grant a recipient’s request for a waiver to retain a fund balance in excess of 25% of its annual support. Id. The Corporation reasoned that, by allowing for waivers to retain that amount, “[t]he recipient can better plan and find the best use for the funds, rather than being forced into a hasty expenditure simply to avoid the limitation on the carryover of fund balances.” Id. at 66640. The rule, however, limited the situations justifying a recipient’s request to retain more than 25% of its annual support to “three specific circumstances when extraordinary and compelling reasons exist for such a waiver,” currently listed in § 1628.3(c). Id. at 66638. These extraordinary and compelling circumstances were restricted to the following situations when a recipient received income derived from its use of LSC funds: “(1) An insurance reimbursement; (2) the sale of real property; and (3) the receipt of monies from a lawsuit in which the recipient was a party.” Id. at 66639. Although the Operations and Regulations Committee (Committee) “considered using a standard of ‘extraordinary and compelling’ for these waivers with the three specific circumstances discussed as examples,” it ultimately decided “that more guidance was required to avoid erosion of the standard,” and the three circumstances became exclusive

limitations, not mere examples. Id. at 66640. The LSC Board of Directors (Board) adopted the revisions to part 1628 on November 20, 1999, and the revised rule has been in effect since December 7, 2000. Id. at 66637-38.

On [April XX, 2015], the Committee voted to recommend that the Board publish this NPRM in the Federal Register for notice and comment. On [April XX, 2015], the Board accepted the Committee's recommendation and voted to approve publication of this NPRM.

## **II. LSC Consideration of Potential Revisions to Part 1628**

During the nearly 15-year period since part 1628 was last revised, LSC grantees have experienced various unexpected occurrences outside of those listed in § 1628.3(c) that caused them to accrue fund balances in excess of 25% of their annual support. These occurrences have included an end-of-year transfer of assets from a former grantee to a current grantee, a natural disaster that resulted in a significant infusion of use-or-lose disaster relief funds from non-LSC sources, and receipt of a large attorneys' fees award in an LSC-funded case near the end of the fiscal year. In each of these situations, LSC determined that part 1628 currently prevents some recipients with legitimate reasons for having fund balances exceeding 25% of their annual LSC support from seeking and obtaining needed waivers.

On January 22, 2015, LSC staff presented the Committee with a proposal to consider revising part 1628 to address the difficulties faced by recipients that encounter these types of occurrences, yet are unable to justify a waiver request to retain a balance in excess of 25% of their annual support under the current standards. The Committee authorized LSC management to add the matter to the Committee's rulemaking agenda so that it may address this issue. In addition, the Committee requested that LSC consider whether the rule's 10% and 25% caps on

fund balance carryovers are still appropriate in light of the most recently available data on recipient waiver requests.

LSC first considered revising part 1628 to allow recipients to request, and the Corporation to grant, waivers to retain fund balances in excess of 25% of annual support in extraordinary and compelling circumstances not covered by the current rule. Current § 1628.3(c) is limited to three circumstances where a recipient receives an infusion of derivative income, or income derived from the recipient's use of LSC funds. As discussed above, however, recent situations have included the sudden infusion of non-derivative, use-or-lose income under other circumstances that significantly disrupted grantee expenditure plans. As a result, LSC staff determined that the list of extraordinary and compelling circumstances in § 1628.3(c) should be illustrative, rather than limited, so that recipients that encounter truly unforeseeable scenarios can avoid having to make the difficult choice between returning large portions of unused balances and hurriedly spending funds before the end of the fiscal year. LSC staff similarly determined that such circumstances should include situations where a grantee is incapable of expending its existing LSC funds as originally planned due to a natural disaster or other catastrophic event, as opposed to only situations where new income is received. Therefore, the Corporation proposes providing an illustrative list of extraordinary and compelling circumstances justifying waivers to retain a fund balance in excess of 25% of a recipient's annual support. LSC believes that this proposed revision will allow grantees to devise more organized and efficient spending plans when faced with unexpected events that are not listed in current § 1628.3(c). Providing recipients with sufficient time to plan for the expenditure of unused funds in excess of 25% of their annual support would also advance the Corporation's policy of ensuring effective and economical provision of high quality legal assistance to eligible clients.

LSC next considered revising part 1628 to provide that a recipient may submit a waiver request prior to submitting its annual audited financial statements. Section 1628.4(a) currently provides that a recipient may request a waiver within 30 days of the submission of its annual audited financial statements. The preamble to the 2000 rule, however, states that “[t]his rule does not preclude the recipient’s request for a Corporation action on a waiver prior to the close of the fiscal year, it simply does not require the Corporation to provide for advance approval.” 65 FR 66637, 66640, Nov. 7, 2000. LSC staff determined that incorporating the current preamble language on permitting waiver requests prior to the close of the fiscal year into the regulatory text of part 1628 would benefit grantees by allowing them to seek assurance that they will not have to return or spend a large portion of excess LSC funds by the end of the fiscal year, thereby enabling them to plan for the following fiscal year with greater certainty.

LSC staff also found that limiting early approvals to requests for waivers to retain balances in excess of 25% of annual support would be proper in light of the unique and significant burdens on financial planning faced by recipients that experience extraordinary and compelling circumstances. In addition, because a recipient’s estimate of the fund balance it anticipates accruing by the end of the fiscal year may end up being higher or lower than the recipient’s actual fund balance at the time it submits its audited financial statements, LSC staff determined that recipients that receive approval of a waiver request prior to submitting their audited financial statements must submit updated information consistent with the requirements of § 1628.4(a) after the submission of their audited financial statements. Accordingly, an advance approval would be, in effect, an approval of the reasons for a waiver and of the proposed amount to be retained, but the recipient must later provide confirmation of the actual amount of excess funds it has accrued. LSC therefore proposes revising the rule to provide that

recipients that face extraordinary and compelling circumstances may submit a waiver request to retain a fund balance in excess of 25% of their annual support prior to the submission of their annual audited financial statements, and that the Corporation may, in its discretion, grant approval of such requests pending confirmation of the actual amount to be retained once the audited financial statements are finalized.

The Corporation also considered revising part 1628 to require LSC management to provide notice to the Board of any decision to grant a waiver in excess of 25% of a recipient's annual support. LSC is retaining the "extraordinary and compelling circumstances" standard for granting such waivers, and anticipates that recipients will continue to seek such waivers only in circumstances where they experience extreme events that prevent them from expending more than 25% of their annual LSC support. Furthermore, the granting of LSC funding and exercising discretion with regard to carryover, suspension or termination of such funding has been and should remain a management, not a Board, function. The Corporation will continue to exercise its discretion with the same good faith and fidelity to the objective of ensuring the timely expenditure of LSC funds as it has done since part 1628 was last revised in 2000. Therefore, LSC proposes to retain its current policy of leaving discretion to grant waivers to retain excess recipient fund balances with LSC management.

Finally, pursuant to the Committee's request, LSC considered whether the rule's 10% and 25% caps on fund balance carryover amounts should be adjusted in accordance with recent trends in waiver requests. LSC's Office of Compliance and Enforcement (OCE) provided LSC staff with statistics on all waiver requests that have been submitted to the Corporation over the last six years. After analyzing the data, LSC decided as a policy matter that the respective percentage caps are set at the appropriate levels. According to the statistics, the average annual



number of waiver requests to retain a fund balance that exceeds 10% of a recipient's LSC support is easily manageable by OCE. Furthermore, waiver requests to retain a balance in excess of 25% of LSC support are exceedingly rare, and the Corporation does not expect a significantly greater number of such requests if the proposed revisions to part 1628 are adopted. LSC believes that the current percentage caps on carryover amounts are necessary to ensure that recipients are spending their grants on providing legal services, while offering an appropriate amount of flexibility to retain unused fund balances. The Corporation therefore proposes retaining the current percentage cap amounts, but requests comments on whether to change them.

### **III. Discussion of the Proposed Changes**

#### § 1628.3 Policy

LSC proposes to revise §1628.3(c) to eliminate the language limiting the extraordinary and compelling circumstances in which LSC may grant a recipient's request for a waiver to retain a fund balance that exceeds 25% of its annual LSC support. Whereas existing § 1628.3(c) is limited to three circumstances where a recipient receives a sudden infusion of income, the proposed section expands the types of situations that the Corporation, in its discretion, may consider to be extraordinary and compelling circumstances. The proposed section adds the example of a natural disaster to illustrate a situation where a recipient would be unable to expend its current LSC grant for reasons other than the receipt of new funds. The proposed section also adds the example of "a payment from an LSC-funded lawsuit, regardless of whether the recipient was a party to the lawsuit." This revision makes clear that a recipient may request a waiver to retain a fund balance in excess of 25% of its annual support when it receives an award as the result of a court decision in an LSC-funded case, even if the recipient was not named as a party to the action.

LSC also proposes to make a minor revision to § 1628.3(d) to reflect the proposed redesignation of certain paragraphs in § 1628.4.

#### § 1628.4 Procedures

LSC proposes to add a new § 1628.4(d) to expressly allow recipients that face extraordinary and compelling circumstances to submit a waiver request to retain a fund balance in excess of 25% of their annual support prior to the submission of their annual audited financial statements. This addition will require existing §§ 1628.4(d), (e), (f), and (g) to be redesignated to §§ 1628.4(e), (f), (g), and (h).

The proposed new § 1628.4(d) will list the written requirements for a waiver request to retain a fund balance in excess of 25% of annual support. These requirements vary from the ones listed in § 1628.4(a), which apply only to requests made within 30 days after the submission of a recipient's annual audited financial statements. There are two reasons for the variation. First, because the annual audited financial statement of a recipient requesting an early waiver approval would not yet be available to the Corporation, recipients can provide only an estimate of the fund balance they anticipate to accrue by the time their statements are submitted. Second, because a recipient may submit a waiver request either before or after the close of the fiscal year, the proposed section will require recipients to provide a "plan for disposing of the excess fund balance," as opposed to a plan for the "current fiscal year" as required by § 1628.4(a). Additionally, proposed § 1628.4(d) requires recipients receiving approval to later submit updated information consistent with the requirements of paragraph (a) to confirm the actual fund balance amount to be retained by the recipient, as determined by reference to its annual audited financial statements.

Finally, LSC proposes to revise the introductory text of paragraph (a), as well as paragraphs (a)(2) and (a)(3), for clarity and readability.

Administrative practice and procedure; Grant programs – law; Legal services.

For the reasons set forth in the preamble, the Legal Services Corporation proposes to revise 45 CFR part 1628 as follows:

**PART 1628 – RECIPIENT FUND BALANCES**

1. The authority citation for Part 1628 is revised to read as follows:

AUTHORITY: 42 U.S.C. § 2996g(e).

2. Revise paragraphs (c) and (d) of § 1628.3 to read as follows:

**§ 1628.3 Policy**

\* \* \* \* \*

(c) Recipients may request a waiver to retain a fund balance in excess of 25% of a recipient’s LSC support only for extraordinary and compelling circumstances, such as when a natural disaster or other catastrophic event prevents the timely expenditure of LSC funds, or when the recipient receives an insurance reimbursement, the proceeds from the sale of real property, a payment from a lawsuit in which the recipient was a party, or a payment from an LSC-funded lawsuit, regardless of whether the recipient was a party to the lawsuit.

(d) A waiver pursuant to paragraph (b) or (c) of this section may be granted at the discretion of the Corporation pursuant to the criteria set out in § 1628.4(e).

\* \* \* \* \*

3. Amend § 1628.4 as follows:

a. Redesignate paragraphs (d) through (g) as paragraphs (e) through (h).

b. Revise paragraph (a) introductory text, paragraphs (a)(2) and (a)(3), and add new paragraph (d) to read as follows:

**§ 1628.4 Procedures**

(a) A recipient may request a waiver of the 10% ceiling on LSC fund balances within 30 days after the submission to LSC of its annual audited financial statements. The request shall specify:

\* \* \* \* \*

(2) The reason(s) for the excess fund balance;

(3) The recipient's plan for disposing of the excess fund balance during the current fiscal year;

\* \* \* \* \*

(d) A recipient may submit a waiver request to retain a fund balance in excess of 25% of its LSC support prior to the submission of its audited financial statements. The Corporation may, at its discretion, provide approval in writing. The request shall specify the extraordinary and compelling circumstances justifying the fund balance in excess of 25%; the estimated fund balance that the recipient anticipates it will accrue by the time of the submission of its audited financial statements; and the recipient's plan for disposing of the excess fund balance. Upon the submission of its annual audited financial statements, the recipient must submit updated information consistent with the requirements of paragraph (a) of this section to confirm the actual fund balance to be retained.

\* \* \* \* \*

**Final Rule**  
**Code of Federal Regulations 45**  
**Part 1640**

## **LEGAL SERVICES CORPORATION**

### **45 CFR Part 1640**

#### **Application of Federal law to LSC Recipients**

**AGENCY:** Legal Services Corporation

**ACTION:** Final rule.

**SUMMARY:** This final rule updates the Legal Services Corporation (LSC or Corporation) regulation on the application of Federal law to LSC recipients. The FY 1996 appropriations act (incorporated in LSC's appropriations by reference annually thereafter) subjects LSC recipients and its employees and board members to Federal law relating to the proper use of Federal funds. This final rule provides recipients with notice of the applicable Federal laws each recipient and its employees and board members must agree to be subject to under this rule, the consequences of a violation of an applicable Federal law, and where LSC will maintain the list of applicable laws.

**DATE:** This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street N.W., Washington, DC 20007; (202) 295-1563 (phone), (202) 337-6519 (fax), or [sdavis@lsc.gov](mailto:sdavis@lsc.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. History of This Rulemaking**

Section 504(a)(19) of LSC's FY 1996 appropriations act required LSC recipients to enter into a contract that subjected them to "all provisions of Federal law relating to the proper use of Federal funds." Sec. 504(a)(19), Pub. L. 104-134, title V; 110 Stat. 1321. By its terms, a

violation of Sec. 504(a)(19) renders any LSC grant or contract null and void. The provision has been incorporated by reference into each of LSC's annual appropriations act since. Accordingly, the preamble and text of this final rule continue to refer to the relevant section number of the FY 1996 appropriations act.

The Corporation first issued 45 CFR Part 1640 as an interim rule in 1996 to implement Sec. 504(a)(19). 61 FR 45760, Aug. 29, 1996. The interim rule was put in place to provide immediate guidance to LSC recipients on legislation that was already in effect and carried significant penalties for noncompliance. *Id.* In the preamble to the interim rule, LSC announced that it was interpreting the statutory phrase "all provisions of Federal law relating to the proper use of Federal funds" to mean "with respect to [a recipient's] LSC funds, all programs should be subject to Federal laws which address issues of waste, fraud and abuse of Federal funds." *Id.* LSC based its interpretation on legislative history that appeared to limit the applicable laws to those dealing with fraud, waste, and abuse of Federal funds.

In particular, LSC relied on two congressional documents to support its interpretation. First, the Corporation cited to the House Report for H. R. 2076, which was a prior effort to enact a provision similar to section 504(a)(19). The relevant language in that report stated:

[S]ection 504(20) requires all programs receiving Federal funds to comply with Federal statutes and regulations governing waste, fraud, and abuse of Federal funds.

H. Rep. No. 104-196, 104<sup>th</sup> Cong., 1<sup>st</sup> Sess. 116 (July 1995) (emphasis added). Second, LSC cited section 5 of H. R. 1806, the Legal Services Reform Act of 1995, which was an unsuccessful attempt to revise the LSC Act. As an extension of his remarks introducing H.R. 1806, Rep. McCollum submitted a partial summary of the bill, including a discussion of section 5 entitled "Application of waste, fraud, and abuse laws." 141 Cong. Rec. E1220-21 (daily ed.

June 9, 1995). Section 5 itself was titled “Protection Against Theft and Fraud,” and expressly included provisions of Title 18 of the U.S. Code pertaining to criminal offenses involving the misuse of Federal funds, as well as provisions of the False Claims Act. H. R. 1806, 104<sup>th</sup> Cong., § 5 (1995).

LSC adopted the list of statutes in section 5, with one exception. Through negotiation with LSC’s Office of Inspector General (OIG), LSC determined that two other criminal statutes should be included in the list. 61 FR 45760, Aug. 29, 1996. These statutes prohibit bribery of public officials and witnesses and conspiracy to defraud the United States. *Id.* at 45761.

Minor changes to the interim rule, not affecting this list, were made before the final rule was published in 1997. 62 FR 19424-19427, Apr. 21, 1997. LSC has not revised Part 1640 since the publication of the final rule.

Since the final rule was published, Congress has amended or passed other Federal laws relating to the proper use of Federal funds. In 2014, OIG raised concerns that the § 1640.2(a)(1) list of applicable Federal laws is now under-inclusive. As an example, OIG noted the omission of 18 U.S.C. 666, which prohibits theft or bribery concerning programs receiving Federal funds and has been the basis for OIG’s referrals to the Department of Justice for prosecution.

Subsequently, LSC staff researched other Federal laws applicable to fraud, waste, and abuse of Federal funds. The search revealed at least two other Federal laws relating to the proper use of Federal funds currently missing from the § 1640.2(a)(1) list: 18 U.S.C. 285—Taking or using papers relating to claims, and 18 U.S.C. 1031—Major fraud against the United States.

As required by the LSC Rulemaking Protocol, LSC staff prepared an explanatory rulemaking options paper, accompanied by a proposed rule amending Part 1640. On January 22, 2015, the Operations and Regulations Committee (Committee) voted to authorize LSC to initiate



rulemaking and to recommend that the LSC Board of Directors (Board) approve publishing the proposed rule. On January 24, 2015, the Board approved the proposed rule for publication in the Federal Register for notice and comment. LSC published the notice of the proposed rulemaking (the NPRM) in the Federal Register on February 3, 2015. 80 FR 5016, Feb. 3, 2015. The comment period remained open for thirty days and closed on March 5, 2015.

On [INSERT DATE] the Committee considered the draft final rule for publication and voted to recommend its publication to the Board. On [INSERT DATE], the Board voted to adopt and publish the final rule.

Material regarding this rulemaking is available in the open rulemaking section of LSC's website at <http://www.lsc.gov/about/regulations-rules/open-rulemaking>. After the effective date of the rule, those materials will appear in the closed rulemaking section at <http://www.lsc.gov/about/regulations-rules/closed-rulemaking>.

## **II. Section-by-Section Discussion of Comments and Regulatory Provisions**

LSC received two comments during the public comment period. One comment was submitted by an LSC-funded recipient, Colorado Legal Services (CLS). The other comment was submitted by the non-LSC-funded non-profit National Legal Aid and Defender Association (NLADA) through its Civil Policy Group and its Regulations and Policy Committee. Both commenters were generally supportive of the changes LSC proposed to Part 1640.

### **Proposed § 1640.1 - Purpose**

LSC proposed revising this section to reflect the changes to Part 1640, specifically removing the language stating that the applicable Federal laws were identified in Part 1640. LSC received no comments on this proposal.

### **Proposed § 1640.2 – Applicable Federal laws**

LSC proposed deleting the existing § 1640.2(a)(1) list of applicable Federal laws. The contracts between the Corporation and its recipients, currently referred to as the LSC Grant Assurances, will be modified to provide recipients with a weblink to the updated list. LSC proposed a new § 1640.2(a), which states that the Corporation will maintain a public list of applicable Federal law on the Corporation's website. LSC stated in the preamble of the NPRM that the list would be exhaustive but did not specifically use that term in the proposed rule text.

Comment 1: NLADA and CLS both expressed concern that LSC's decision to move the list of applicable Federal laws from the rule to LSC's website would decrease stakeholders' ability to comment on proposed changes to the list. NLADA noted that this was the second proposal by LSC in the past year to remove a section of a regulation from the usual rulemaking process. NLADA stated: "While we understand and support LSC's desire in this instance to avoid an unnecessary, time-consuming regulatory process, we want to confirm NLADA's very strong support" for LSC's commitment, expressed in the 2002 rulemaking protocol, to "conduct its rulemaking activities in a spirit of cooperative dialog with [] recipients and other interested parties." CLS similarly asserted that "[a]s LSC is a program uniquely committed to protecting due process rights and protections, it should adhere to them strictly itself and provide an opportunity for comment before the list of Federal laws relating to the proper use of Federal funds by LSC recipients is modified or changed."

Response: LSC views updating the list of applicable Federal laws to be an administrative task that does not affect the underlying substance of the rule. Updating the list does not materially change the Part 1640 requirement that recipients, and its employees and board members, comply with Federal laws relating to the proper use of Federal funds.

Although the regulation does not require notice and an opportunity for comment before submitting modifications of the list to the Board for approval, LSC remains committed to providing recipients with notice of any proposed modifications before a Board meeting. Recipients will have an opportunity to comment on the proposed modifications prior to and at the meeting where the modifications will be discussed.

Comment 2: CLS and NLADA supported LSC's decision to make the list of applicable Federal laws exhaustive. In its comment, NLADA recommended that LSC include language in the text of the rule stating that the list is exhaustive.

Response: LSC will adopt NLADA's recommendation. LSC will revise the first sentence of § 1620.2(a) to read: "LSC will maintain an exhaustive list of applicable Federal laws relating to the proper use of Federal funds on its website and provide recipients with a link to the list in the contractual agreement."

LSC proposed renumbering § 1640.2(a)(2) as § 1640.2(b) and revising the language for clarity and readability. No substantive changes were made to this subsection. LSC received no comments on this proposal. LSC proposed redesignating existing § 1640.2(b)(1) and (2) as § 1640.4(a) and (c) respectively.

### **Proposed § 1640.3 – Contractual agreement**

LSC proposed revising existing § 1640.3 for clarity and readability. No substantive changes were made to this subsection. LSC received no comments on this proposal.

### **Proposed § 1640.4 – Violation of agreement**

LSC proposed redesignating existing § 1640.2(b)(1) and (2) as § 1640.4(a) and (c) respectively. The proposed move groups each definition in existing § 1640.2(b) with each definition's consequence for violating the agreement in existing § 1640.4. No substantive

changes were made, but the text has been revised for clarity and readability throughout the section. LSC received no comments on this proposal.

#### List of Subjects in 45 CFR Part 1640

Fraud; Grant programs-law; Legal services.

For the reasons stated in the preamble, the Legal Services Corporation revises 45 CFR part 1640 to read as follows:

#### PART 1640 – APPLICATION OF FEDERAL LAW TO LSC RECIPIENTS

Sec.

- |        |                          |
|--------|--------------------------|
| 1640.1 | Purpose.                 |
| 1640.2 | Applicable Federal laws. |
| 1640.3 | Contractual agreement.   |
| 1640.4 | Violation of agreement.  |

Authority: 42 U.S.C. 2996e(g)

#### **§ 1640.1 Purpose**

The purpose of this part is to ensure that recipients use their LSC funds in accordance with Federal law related to the proper use of Federal funds. This part also provides notice to recipients of the consequences of a violation of such Federal laws by a recipient, its employees or board members.

#### **§ 1640.2 Applicable federal laws**

(a) LSC will maintain an exhaustive list of applicable Federal laws relating to the proper use of Federal funds on its website and provide recipients with a link to the list in the contractual agreement. The list may be modified with the approval of the Corporation's Board of Directors. LSC will provide recipients with notice when the list is modified.

(b) For the purposes of this part and the laws referenced in (a), LSC is considered a Federal agency and a recipient's LSC funds are considered Federal funds provided by grant or contract

### **§ 1640.3 Contractual agreement**

As a condition of receiving LSC funds, a recipient must enter into a written agreement with the Corporation that, with respect to its LSC funds, will subject the recipient to the applicable Federal laws relating to the proper use of Federal funds. The agreement must include a statement that all of the recipient's employees and board members have been informed of such Federal law and of the consequences of a violation of such law, both to the recipient and to themselves as individuals.

### **§ 1640.4 Violation of agreement**

(a) LSC will determine that a recipient has violated the agreement described in § 1640.3 when the recipient has been convicted of, or judgment has been entered against the recipient for, a violation of an applicable Federal law relating to the proper use of Federal funds with respect to its LSC grant or contract, by the court having jurisdiction of the matter, and any appeals of the conviction or judgment have been exhausted or the time for appeal has expired.

(b) A violation of the agreement by a recipient based on recipient conduct will result in the Corporation terminating the recipient's LSC grant or contract without need for a termination hearing. While an appeal of a conviction or judgment is pending, the Corporation may take any necessary steps to safeguard its funds.

(c) LSC will determine that the recipient has violated the agreement described in § 1640.3 when an employee or board member of the recipient has been convicted of, or judgment has been entered against the employee or board member for, a violation of an applicable Federal law relating to the proper use of Federal funds with respect to the recipient's grant or contract with

LSC, by the court having jurisdiction of the matter, and any appeals of the conviction or judgment have been exhausted or the time for appeal has expired, and the Corporation finds that the recipient has knowingly or through gross negligence allowed the employee or board member to engage in such activities.

(d) A violation of the agreement by the recipient based on employee or board member conduct will result in the Corporation terminating the recipient's LSC grant or contract. Prior to termination, the Corporation will provide notice and an opportunity to be heard for the sole purpose of determining whether the recipient knowingly or through gross negligence allowed the employee or board member to engage in the activities leading to the conviction or judgment. While an appeal of a conviction or judgment or a hearing is pending, the Corporation may take any necessary steps to safeguard its funds.

Date: April XX, 2015

Stefanie K. Davis

Assistant General Counsel

**Program Letters 15-1 and 15-2**  
**Code of Federal Regulations 45**  
**Part 1607**

## Program Letter 15-1

**TO:** All Executive Directors

**FROM:** Ronald S. Flagg  
General Counsel and Vice President for Legal Affairs

**DATE:** February 23, 2015

**SUBJ:** Eligible Client Members for Recipients' Governing Bodies Under 45 C.F.R. § 1607.2(c)

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### *Introduction*

LSC is issuing this Program Letter to provide guidance to recipients on the definition and selection of eligible client members for a recipient's governing body. LSC has become aware of questions as to what is meant by the term "eligible client member" as defined in 45 C.F.R. § 1607.2(c).

### ***Must an eligible client member of a recipient's governing body meet LSC's financial-eligibility requirements?***

Yes. The Legal Services Corporation Act (LSC Act), 42 U.S.C. § 2996 *et seq.*, requires that at least one-third of a recipient's governing body members be eligible clients. The LSC Act further provides that eligible client members must be eligible for legal assistance when selected for the recipient's board. 42 U.S.C. § 2996f(c).

45 C.F.R. Part 1607 implements the Act's requirements regarding governing board composition. Section 1607.2(c) clearly states that eligible client members must be "financially eligible to receive legal assistance under the [LSC] Act and [45 C.F.R.] Part 1611 at the time of appointment to each term of office[.]" Part 1611 establishes the financial eligibility requirements that each individual must meet in order to receive legal assistance from a recipient. A recipient may not use any broader financial-eligibility requirements of a non-LSC funding source when determining a client member's financial eligibility to serve on the governing body.

LSC explained in the Preamble to Part 1607 that the recipient must screen potential client members for financial eligibility for legal assistance each time the member is appointed to a new term on the governing body. 59 Fed. Reg. 65249-65250 (Dec. 19, 1994). The recipient can choose to delegate this responsibility to the appointing organization. Regardless of which entity screens the potential client member, the individual can only serve as an eligible client member if the individual meets the LSC financial-eligibility requirements for legal assistance. An eligible client member is not required to have actually received legal assistance at the time of appointment.



***Can an eligible client member seat be filled by someone who represents a group of eligible clients but does not personally meet the LSC financial eligibility requirements?***

No. Section 1007(c) of the LSC Act clearly states that eligible client members are “persons who are, when selected, eligible clients who may also be representatives of associations or organization of eligible client members.” 42 U.S.C. § 2996f(c). The Act does not permit the appointment -- as an eligible client member -- of a representative of an organization of eligible clients who is not himself or herself eligible to receive LSC-funded services. Consistent with the LSC Act, 45 C.F.R. Part 1607 requires that every individual appointed as an eligible client member meet the financial eligibility requirements set out in the Act and in 45 C.F.R. Part 1611.

## Program Letter 15-2

**TO:** All Executive Directors

**FROM:** Ronald S. Flagg  
General Counsel and Vice President for Legal Affairs

**DATE:** February 23, 2015

**SUBJ:** Fiduciary Duties of Members of Recipient's Governing Body

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LSC is issuing this Program Letter to provide guidance to recipients on the fiduciary duties of all board members of a recipient's governing body. LSC has become aware that there are questions as to fiduciary duties and to whom they are owed.

### *What are the fiduciary duties of the members of a recipient's governing body?*

When an individual is selected to serve as a member of a recipient's governing body, he or she joins a board that makes decisions for the recipient as a group. Even though board members act as a group, each individual board member owes certain fiduciary duties to the recipient. Fiduciary duties apply equally to attorney members, eligible client members, and other non-attorney members of a recipient's governing body. There are two primary fiduciary duties: the duty of care and the duty of loyalty.

#### **Duty of Care**

The duty of care focuses on the manner in which decisions are made. It requires a board member to act in a reasonable and informed manner when making decisions affecting the recipient. Each member must act in good faith, with the degree of care that an ordinary prudent person would exercise under similar circumstances, and in a manner that is in the recipient's best interest. Thus, for example, a board member should prepare for, attend and participate in board meetings, be familiar with the bylaws and other governing documents of the recipient, and review budgets, financial statements and operating reports to ensure that the recipient is performing in accordance with its mission and applicable statutes and regulations.

#### **Duty of Loyalty**

The duty of loyalty focuses on a board member's motives, purposes, or goals when making decisions concerning the recipient. The duty of loyalty requires each board member to put the recipient's interest before his or her own interests. Board members must avoid even the appearance of having divided loyalties. This is especially true for board members who have been appointed to a recipient's board by an outside group. ***The duty of loyalty for every board member runs to the recipient and not to an outside group that appoints board members.*** The board member must make decisions in the best interest of the recipient and not to further a

competing professional or personal interest that conflicts with the recipient's best interest. If a board member has a conflict of interest in any particular matter, the board member must disclose that conflict for resolution under the recipient's conflicts policy, consistent with LSC's requirements and other applicable laws and requirements.

\* \* \* \* \*

Recipients should consider providing guidance to their governing body members concerning best practices. A sample of such guidance is appended as Attachment A.

## **Attachment A to Program Letter 15-2**

### **Sample Guidance to Members of a Recipient's Governing Body**

Members of the Governing Body should:

#### **Participation**

1. Read and abide by the recipient's bylaws.
2. Be informed about the recipient's mission, policies, and activities.
3. Prepare for, attend and participate in board meetings, board trainings, and planning sessions.
4. Participate in program strategic planning, policy making, and oversight.
5. Participate on one or more board committees.
6. Assist in fundraising for the program.
7. Be informed of legal issues affecting the client community and means to address them.

#### **Governance**

1. Support the recipient's mission and oversee that it is carried out and meets the needs of the community that it serves.
2. Oversee that the recipient conducts its business in compliance with federal and state law, its bylaws, and its funding requirements.
3. Review minutes, annual audit reports, budgets, case reports, and other operational reports.
4. Review monitoring and evaluation reports from funders.
5. Monitor finances and spending.
6. Participate in strategic and resource development plans.
7. Assist with resource development activities.
6. Oversee personnel policies.
7. Participate in the selection of the executive director and annually evaluate that person's performance.
8. Act as a resource for the organization in any areas of expertise.
9. Assist in establishing and maintaining relations with other stakeholders

#### **Professional and Ethical Standards**

1. Maintain the confidentiality of information designated as confidential.
2. Support the outcome of decisions, even when not in agreement.
3. Identify conflicts of interest, and potential conflicts of interest, disclose any such conflicts to the board, and abstain from voting when appropriate.
4. Maintain open lines of communication with the executive director.

# **Enforcement Mechanisms**

## ENFORCEMENT MECHANISMS

### PROGRAM LETTER 15-3

March 31, 2015

#### I. Overview

##### A. Purpose

This program letter provides an overview of LSC policies for enforcement actions that LSC may take in the event of grantee noncompliance with the terms and conditions of a grant. The program letter explains general practices of LSC, but it does not limit LSC's discretion to make decisions that are otherwise permissible under the LSC statutes and regulations.

##### B. Scope

This program letter describes the LSC regulations covering enforcement mechanisms to provide guidance to LSC grantees regarding the operation of these regulations. This program letter summarizes the major provisions of the following regulations to organize and explain them (but does not include every detail set forth in each of the regulations summarized):

- Enforcement procedures generally—45 C.F.R. Part 1618
- Suspensions of funding—45 C.F.R. Part 1623
- Limited reductions of funding (less than 5% of the grant)—45 C.F.R. Part 1606
- Terminations (5% of the grant or greater)—45 C.F.R. Part 1606
- Debarment—45 C.F.R. Part 1606

This program letter does not address the disallowed costs procedures of 45 C.F.R. Part 1630, which involve recovering grant funds.

##### C. Covered Grants

This program letter applies to LSC grants or contracts provided under section 1006(a)(1)(A) of the LSC Act to LSC recipients for the purpose of providing legal assistance to eligible clients. Those grants include Basic Field—General, Basic Field—Migrant, and Basic Field—Native American. 42 U.S.C. § 2996e(a)(1)(A). The LSC Act and regulations define “LSC recipients” as grantees or contractors receiving “annualized funding from the Corporation granted under section 1006(a)(1)(A) [of the LSC Act] for the direct delivery of legal assistance to eligible clients.” 42 U.S.C. § 2996a(6); 45 C.F.R. § 1600.1. This program letter will refer to all covered entities as “grantees” for convenience. Please note that some LSC grants are subject to different enforcement procedures. For example, termination procedures for LSC Technology Initiative Grants appear at <http://tig.lsc.gov/grants/compliance>.

## LSC PROGRAM LETTER 15-3—ENFORCEMENT MECHANISMS

### D. LSC Offices

The following LSC offices are referred to in this program letter:

- OCE—Office of Compliance and Enforcement
- OPP—Office of Program Performance
- OIG—Office of Inspector General
- OLA—Office of Legal Affairs

### E. Comparison of Procedures

Attached to this program letter is a table comparing the procedures for these enforcement mechanisms. The table was published in the Federal Register on February 13, 2013, at 78 Fed. Reg. 10087, along with revisions to these regulations. To summarize, suspension procedures are the shortest and least formal. Terminations and debarments use identical procedures that include a right to a hearing before an impartial decision maker. Limited reductions of funding use the same basic procedures as terminations, but do not include the right to a hearing and are subject to some different deadlines.

## II. Oversight and Enforcement

LSC oversees grantee compliance with all LSC rules and restrictions, many of which are statutorily mandated. Although LSC is not a federal agency, it provides grants with funds appropriated by Congress. LSC and its grantees are accountable for ensuring that those funds are spent responsibly and only for allowable activities. These enforcement mechanisms are designed to enable LSC to take timely and effective action to deal with issues of noncompliance while protecting the provision of legal services to eligible clients and providing appropriate levels of due process for grantees. LSC can choose the enforcement mechanism best suited to the situation.

Enforcement is an integral part of LSC's overall grants management oversight process and includes review of the grantee's programmatic operations, compliance with rules and requirements, and financial management. LSC works with grantees to identify problems and provide opportunities for correction. Often, grantees are able to implement corrective actions and/or comply with special grant conditions without LSC's initiating an enforcement action. Furthermore, the enforcement procedures include an early opportunity for resolving compliance concerns through an informal conference at which the grantee and LSC may seek to narrow the issues and explore possibilities of settlement or compromise. They also include opportunities for the grantee to implement corrective actions, when appropriate, in lieu of LSC's imposing a sanction. Nonetheless, LSC may impose sanctions when necessary to respond to noncompliance or to compel corrective actions to end noncompliance. Additionally, LSC may impose special grant conditions requiring implementation of corrective actions and related monitoring and reporting.

Compliance is a significant factor in the grant competition process. Based on compliance or programmatic concerns, LSC may decide not to award a grant to a particular entity or to award a grant with a shorter than normal funding term (*e.g., 12 months, 6 months, 3 months, or monthly*), while addressing compliance or programmatic concerns.

## LSC PROGRAM LETTER 15-3—ENFORCEMENT MECHANISMS

### III. Enforcement Actions Generally

#### A. LSC requirements

Suspensions, limited reductions of funding, terminations, and debarment involve compliance with the LSC requirements as defined at 45 C.F.R. § 1618.2:

*LSC requirements* means the provisions of the LSC Act, the Corporation's appropriations act or other law applicable to LSC funds, a Corporation rule, regulation, guideline or instruction, or the terms or conditions of the recipient's grant or contract with the Corporation.

#### B. Substantial noncompliance, substantial violations, and substantial failures

There are two categories of *substantial noncompliance* that apply to sanctions:

- *substantial violations* of the LSC requirements, for which *all sanctions are available*
- or
- *substantial failures* to provide high quality, economical, and effective legal assistance, for which *terminations are available—LSC cannot suspend funds or impose limited reductions of funding* for substantial failures to deliver legal assistance.

45 C.F.R. §§ 1606.2 (definitions), 1606.3 (grounds for termination or limited reduction of funding), 1606.4 (grounds for debarment), 1623.3 (grounds for suspension).

1. "*Substantial violation* means a violation [of the LSC requirements] that *merits action* [under the LSC regulations] based on *consideration* of the following criteria by the Corporation:
  - a. The *number* of restrictions or requirements violated;
  - b. Whether the violation represents an instance of noncompliance with a *substantive statutory or regulatory restriction or requirement*, rather than an instance of noncompliance with a non-substantive technical or procedural requirement;
  - c. The extent to which the violation is part of a *pattern of noncompliance* with LSC requirements or restrictions;
  - d. The extent to which the grantee *failed to take action to cure* the violation when it became aware of the violation; and
  - e. Whether the violation was *knowing and willful*."

45 C.F.R. § 1606.2 (emphasis added). Although LSC must consider all of the criteria, LSC may take enforcement action even when only some of the criteria are met. For example, knowing and willful violations of substantive restrictions by senior staff at a grantee may merit a limited reduction of funding.



## LSC PROGRAM LETTER 15-3—ENFORCEMENT MECHANISMS

2. *Substantial failure* means “a substantial failure by the recipient to provide *high quality, economical, and effective legal assistance*, as measured by:
  - a. generally accepted professional standards [such as the ABA Standards for the Provision of Civil Legal Aid],
  - b. the provisions of the LSC Act or LSC appropriations,
  - c. or a rule, regulation, including 45 CFR 1634.9(a)(2) [grant selection criteria], or guidelines or instructions issued by the Corporation.”45 C.F.R. § 1606.3(a)(2) (emphasis and lettering added).

### C. Part 1618 Requirements

45 C.F.R. § 1618.5 sets forth the following steps regarding enforcement actions (emphasis and outline formatting added).

1. “Whenever the Corporation learns that there is
  - a. *reason to believe* that a recipient or a recipient's employee *may have committed a violation*,
  - b. the Corporation *shall*
    - i. *investigate* the matter promptly  
*and*
    - ii. *attempt to resolve it through informal consultation* with the recipient.”
2. The Corporation may proceed to take an enforcement action when there is “*substantial reason to believe* that a recipient *has persistently or intentionally violated* the LSC requirements, *or after notice*, a recipient *has failed to take appropriate remedial or disciplinary action* to ensure compliance by its employees with the LSC requirements, *and attempts at informal resolution* have been *unsuccessful*.” 45 C.F.R. § 1618.5(a)–(b) (emphasis added).

## IV. Suspensions

Suspensions are the most immediate sanction. LSC can suspend funding in whole or in part. 45 C.F.R. § 1623.2. The procedures for initiating a suspension can be completed in less than *20 business days*. 45 C.F.R. § 1623.4(b)–(g). The suspension can take effect as early as the next scheduled grant payment after the grantee receives the final determination of suspension. 45 C.F.R. § 1623.4(g). Suspended funds are provided to the grantee at the end of the suspension. 45 C.F.R. § 1623.6(b).

LSC may temporarily suspend a grant, in whole or in part, for up to 90 calendar days. 45 C.F.R. § 1623.4(j). Only suspensions based on the failure to submit an acceptable audit may last for more than 90 calendar days. 45 C.F.R. §§ 1623.3(b), 1623.4(k). Audit-based suspensions may last until completion of an acceptable audit. 45 C.F.R. § 1623.4(k).

For non-audit-based suspensions, grantees may appeal the suspension to the LSC President after the first 30 calendar days. 45 C.F.R. § 1623.4(h).

## LSC PROGRAM LETTER 15-3—ENFORCEMENT MECHANISMS

A suspension will end if LSC initiates termination proceedings against the grantee. 45 C.F.R. § 1623.2.

Ordinarily, LSC will issue a final determination of suspension within 30 days of initiating the suspension procedures. LSC can extend deadlines and take longer to complete the process. 45 C.F.R. § 1623.5(a), (c).

### A. Grounds for suspension

1. LSC may initiate a *non-audit-based* suspension when it determines that:
  - a. there has been a *substantial violation* of the LSC requirements (as defined at 45 C.F.R. § 1606.2 and discussed above)  
*and*
  - b. LSC has *reason to believe* that *prompt action is necessary* to:
    - i. safeguard LSC funds  
*or*
    - ii. ensure that the recipient takes immediate corrective action necessary for compliance with the LSC requirements.

45 C.F.R. § 1623.3(a)

2. LSC may initiate an *audit-based* suspension when:
  - a. the grantee has failed to have an acceptable audit under the OIG's audit guidance  
*and*
  - b. the OIG has recommended suspension.

45 C.F.R. § 1623.3(b)

### B. Proposed determination of suspension

LSC commences suspension procedures by serving a written proposed determination of suspension on the grantee stating:

1. the *grounds* and *effective date* for the proposed suspension;
2. any *facts or documents relied upon* as justification for the suspension;
3. what, if any, prompt corrective action the recipient can take to avoid or end the suspension;
4. that, within 5 business days, it may request an informal meeting with LSC about the suspension; and
5. that, within 10 business days, it may submit written materials in opposition to the proposed suspension.

45 C.F.R. § 1623.4(b)

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### C. Informal meeting

If requested by the grantee, LSC will hold an informal meeting with the grantee within 5 *business days* of the request. At the informal meeting, LSC and the grantee shall both have an opportunity to state their cases, seek to narrow the issues, explore the possibilities of settlement or compromise including implementation of corrective actions, and submit written materials. 45 C.F.R. § 1623.4(c)–(e).

### D. Final determination of suspension

Based on the informal meeting and/or written materials, LSC will determine whether the compliance concern can be resolved without a suspension. If LSC decides to suspend funding, then it will provide the grantee with a written final determination containing a summary of the issues raised in the informal conference and presented in any written materials. 45 C.F.R. § 1623.4(f).

### E. Suspension appeals

Grantees *cannot immediately appeal* final determinations of suspension.

For *non-audit-based suspensions*, a grantee can appeal the suspension *after* the suspension has been in effect for 30 *calendar days or more*.

For *audit-based suspensions*, there is *no appeal*.

Appeals of suspensions are directed to the LSC President. 45 C.F.R. § 1623.4(h). The President or another senior LSC employee will review the appeal; the person doing so shall have had no prior involvement in the suspension proceedings. 45 C.F.R. § 1623.4(a), (h).

1. The appeal must be in writing and must state, in detail, the reasons for seeking review.
2. The LSC decision on appeal will be based on the record of the suspension proceedings, including any additional materials that LSC requests. The grantee will have an opportunity to respond to those additional materials.
3. LSC will affirm, modify, or terminate the suspension within 15 calendar days of receipt of the appeal.

45 C.F.R. § 1623.4(h).

## V. Limited Reductions of Funding

LSC may impose a limited reduction of funding, whereby it reduces the grant for the current grant year by less than 5%. Limited reductions of funding affect only the current year's funding. 45 C.F.R. § 1606.2. LSC may determine whether to impose the reduction in one payment, prorated over many months, or by any other means. 45 C.F.R. § 1606.13(d). The amount of the reduction is measured by the total grant for the year, regardless of when the reduction occurs. Thus, a reduction of 4% of the total grant for the year could cause a reduction in a single month's payment of 60%. Alternately, a reduction of 4% imposed at the beginning of a grant year could be applied as a 4% reduction of each payment throughout the entire grant year.

## LSC PROGRAM LETTER 15-3—ENFORCEMENT MECHANISMS

Limited reductions of funding can be imposed within approximately three months of the initial notice, presuming all appeals are requested.

### A. Grounds for a limited reduction of funding

LSC may initiate a limited reduction of funding when it determines that:

1. There has been a *substantial violation* of the LSC requirements (as defined at 45 C.F.R. § 1606.2 and discussed above)
2. that occurred *less than five years prior* to the notice initiating the limited reduction of funding proceedings.

45 C.F.R. § 1606.3(b).

### B. Preliminary determination for a limited reduction of funding

1. The limited reduction of funding proceedings begin with a *written notice* provided to:

- a. the recipient (*e.g.*, the Executive Director) *and*
- b. the Chair of the recipient's governing body.

45 C.F.R. § 1606.6(a).

2. The written notice shall:

- a. *State the substantial violation* that constitutes the grounds for the proposed action (as defined at 45 C.F.R. § 1606.2 and discussed above);
- b. *Identify*, with reasonable specificity, any *facts or documents* relied upon as justification for the proposed action;
- c. *Inform* the recipient of the proposed *amount* and proposed *effective date* for the proposed action;
- d. *Advise* the recipient of its *procedural rights* for review of the proposed action under this part;
- e. *Inform* the recipient of its right to receive *interim funding* pursuant to §1606.13 of this part;
- f. *Specify* what, if any, *corrective action* the recipient can take to avoid the proposed action; and
- g. *Summarize prior attempts*, if any, for resolution of the substantial noncompliance.

45 C.F.R. § 1606.6(a).

3. A grantee may challenge the proposed limited reduction of funding as described below. If the grantee does not do so, then LSC may issue a final decision with *no further avenues for appeal or review under the regulation*. 45 C.F.R. § 1606.6(b).

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### C. Corrective action

LSC may provide the grantee with the option of accepting an LSC-specified corrective action to prevent the limited reduction of funding. 45 C.F.R. § 1606.6(a)(6).

A grantee that attempts to implement a corrective action *cannot also request an informal conference or submit written materials in opposition to the preliminary determination.*

1. The grantee has *10 business days* to submit a draft compliance agreement that:
  - a. accepts the terms of the corrective action proposed by LSC, *and*
  - b. includes *both* an implementation plan and an implementation timeline.

45 C.F.R. § 1606.7(a)(1).

2. If the grantee implements the corrective action to the satisfaction of LSC, then LSC will withdraw the preliminary determination as provided in 45 C.F.R. § 1606.7(a)(2)–(3).
3. If LSC determines at any time that the grantee has not presented an acceptable compliance agreement or met the corrective action requirements then LSC shall:
  - a. notify the grantee in writing,
  - b. within 15 calendar days of that notice, modify or affirm the preliminary decision as a draft final decision, and
  - c. summarize in the draft final decision the attempts at resolution.

45 C.F.R. § 1606.7(a)(4).

4. The grantee has *10 business days* to appeal the draft final decision for a limited reduction of funding to the LSC President or designee. 45 C.F.R. § 1606.10(b) (described below).

### D. Informal conference or written materials in opposition to the preliminary determination

1. If a grantee *does not attempt corrective action* under 45 C.F.R. § 1606.7(a), then the grantee may challenge the preliminary determination for a limited reduction of funding by submitting to LSC *within 10 business days*:
  - a. a request for an informal conference,
  - b. written materials in opposition to the preliminary determination, or
  - c. both.

45 C.F.R. § 1606.7(b).

2. Within *5 business days*, LSC will notify the grantee of the time and place of the conference. 45 C.F.R. § 1606.7(c).
3. The informal conference will be held pursuant to 45 C.F.R. § 1606.7(c)–(f). At the informal conference, the Corporation and the recipient shall both have an opportunity to state their cases, seek to narrow the issues, explore the possibilities of settlement or compromise including implementation of corrective actions, and submit written materials.

## LSC PROGRAM LETTER 15-3—ENFORCEMENT MECHANISMS

4. LSC will issue a draft final decision to modify, withdraw, or affirm the preliminary determination. 45 C.F.R. § 1606.7(f).
  - a. LSC will do so within 15 calendar days of either: (i) the informal conference, or (ii) the receipt of written materials if there is no informal conference. 45 C.F.R. § 1606.7(f).
  - b. That decision will become final if the grantee does not request review by the LSC President. 45 C.F.R. § 1606.10(a).

### *E. Appeal of a draft final decision to impose a limited reduction of funding*

1. *Within 10 business days*, the grantee may appeal the draft final decision to the LSC President. 45 C.F.R. § 1606.10(b)
2. The President or another senior LSC employee will review the appeal; the person doing so shall have had no prior involvement in the suspension proceedings. 45 C.F.R. §§ 1606.5(b), 1606.10(d).
3. The LSC decision on appeal will be based on the record of the proceedings, including any additional materials that LSC requests. The grantee will have an opportunity to respond to those additional materials. Upon request, the Corporation shall provide a copy of the administrative record to the grantee. 45 C.F.R. § 1606.10(c).
4. *Within 30 days* after receiving the request for review, the LSC President or other senior LSC employee will adopt, modify, or reverse the draft decision as the final decision, which cannot be appealed. LSC may also direct further consideration of the matter. 45 C.F.R. § 1606.10(e).

## VI. Terminations

Part 1630 authorizes two types of terminations using the same procedures:

- full termination of the grant, or
- “partial termination” that reduces the grant funds by 5% or more but continues the grant with the remaining funding.

A full termination will end the grant. 45 C.F.R. § 1606.2. LSC will determine the best way to close out the grant and recompute the service area while taking all practical steps to ensure the continued provision of legal assistance in the service area. 45 C.F.R. § 1606.14 and 45 C.F.R. § 1634.11.

A partial termination can apply to the current year of the grant or to multiple years, up to the full grant term. 45 C.F.R. § 1606.2. LSC may determine whether to apply the termination to one payment, prorated over many months, or by any other means. 45 C.F.R. § 1606.13(d). For example, a partial termination of 10% of a grant for the current grant year could be applied over two months, which would reduce the payment for each month by 60%. Alternatively, a 10% reduction could be applied uniformly to each payment over the entire grant year.

Terminations include the right to a hearing before an impartial decision maker. 45 C.F.R. § 1606.8. Terminations have multiple stages and can take six months or more to complete.

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### A. Grounds for a termination

LSC may initiate a termination when it determines that there has been *substantial noncompliance* with the LSC requirements, because:

1. there has been
  - a. a *substantial violation* of the LSC requirements (as defined at 45 C.F.R. § 1606.2 and discussed above)
  - b. that occurred *less than five years prior* to the notice initiating the termination proceedings,

*or*
2. there has been a *substantial failure by the recipient to provide high quality, economical, and effective legal assistance* (as defined at 45 C.F.R. § 1606.3(a)(2) and discussed above).

45 C.F.R. § 1606.3(a)(1)–(2).

### B. Preliminary determination for a termination

1. The termination proceedings begin with a *written notice* provided to:
  - a. the recipient (*e.g.*, the Executive Director) *and*
  - b. the Chair of the recipient’s governing body.

45 C.F.R. § 1606.6(a).
2. The written notice shall:
  - a. *State the substantial noncompliance* that constitutes the grounds for the proposed action (involving a *substantial violation* or a *substantial failure* as discussed above);
  - b. *Identify*, with reasonable specificity, any *facts or documents* relied upon as justification for the proposed action;
  - c. *Inform* the recipient of the proposed *amount* and proposed *effective date* for the proposed action;
  - d. *Advise* the recipient of its *procedural rights* for review of the proposed action under this part;
  - e. *Inform* the recipient of its right to receive *interim funding* pursuant to § 1606.13 of this part;
  - f. *Specify* what, if any, *corrective action* the recipient can take to avoid the proposed action; and
  - g. *Summarize prior attempts*, if any, for resolution of the substantial noncompliance.

45 C.F.R. § 1606.6(a).

3. A grantee may challenge the proposed termination as described below. If the grantee does not do so, then LSC may issue a final decision with *no further avenues for appeal or review under this part*. 45 C.F.R. § 1606.6(b).

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### C. Alternate avenues for appeal

For terminations, grantees have two different paths for appeal. The grantee always has a right to request a hearing before an impartial hearing examiner. The grantee can directly request that hearing as discussed in paragraph VI.F, below. Alternatively, the grantee may first accept LSC's proposed corrective action plan (if provided), participate in an informal conference, or submit written materials for LSC's consideration. Those options are discussed in paragraphs VI.D and E below. Thereafter, the grantee can request a hearing before an impartial hearing examiner. 45 C.F.R. § 1606.7.

### D. Corrective action (if available)

If LSC proposes a corrective action to prevent the termination, then the grantee may attempt to implement that proposed corrective action. 45 C.F.R. § 1606.7(a).

A grantee that attempts to implement a corrective action *cannot also request an informal conference or submit written materials in opposition to the preliminary determination*. 45 C.F.R. § 1606.7(a)

1. The grantee has *10 business days* to submit a draft compliance agreement under the procedures at 45 C.F.R. § 1606.7(a)(1).
2. If the grantee implements the corrective action to the satisfaction of LSC, then LSC will withdraw the preliminary determination as provided in 45 C.F.R. § 1606.7(a)(2)–(3).
3. If LSC determines at any time that the grantee has not presented an acceptable draft agreement or met the corrective action requirements, then LSC shall:
  - a. notify the grantee in writing,
  - b. within *15 calendar days* of that notice, modify or affirm the preliminary decision as a *draft final decision*, and
  - c. summarize in the draft final decision the attempts at resolution.

45 C.F.R. § 1606.7(a)(4).

4. The grantee has *10 business days* to appeal the draft final decision to the LSC President. 45 C.F.R. § 1606.10(b) (described below).

### E. Informal conference or written materials in opposition to the termination

1. If a grantee does not attempt corrective action under 45 C.F.R. § 1606.7(a), then the grantee may challenge the preliminary determination for a termination by submitting to LSC *within 30 calendar days*:
  - a. a request for an informal conference,
  - b. written materials in opposition to the preliminary determination, or
  - c. both.

45 C.F.R. § 1606.7(b).



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2. Within *5 business days*, LSC will notify the grantee of the time and place of the conference. 45 C.F.R. § 1606.7(c).
3. The informal conference will be held pursuant to 45 C.F.R. § 1606.7 (c)–(f). At the informal conference, the Corporation and the recipient shall both have an opportunity to state their cases, seek to narrow the issues, explore the possibilities of settlement or compromise including implementation of corrective actions, and submit written materials.
4. LSC will issue a *draft final decision* to modify, withdraw, or affirm the preliminary determination.
  - a. LSC will do so within *15 calendar days* of either (i) the informal conference, or (ii) the receipt of written materials if there is no informal conference. 45 C.F.R. § 1606.7(f).
  - b. That decision will become final if the grantee does not request review by the LSC President. 45 C.F.R. § 1606.10(a).

### F. Appeal for a hearing before an impartial hearing examiner

1. The grantee may request a hearing before an impartial hearing examiner. 45 C.F.R. § 1606.8. There are two options for doing so, as discussed in paragraph VI.C, above, with the following deadlines to request a hearing:
  - a. *30 calendar days* to request a hearing to *directly appeal the preliminary determination*, described in paragraph VI.B, above, and at 45 C.F.R. § 1606.6.  
*or*
  - b. *15 calendar days* to request a hearing to review a draft final decision issued after consideration of *corrective actions, an informal conference, or submitted written materials*, as described in paragraphs VI.D and VI.E, above, and at 45 C.F.R. § 1606.7.
2. *Within 10 business days after LSC receives a request for a hearing*, LSC will notify the recipient in writing of the date, time, and place of the hearing and the names of the hearing officer and of the attorney who will represent the Corporation. 45 C.F.R. § 1606.8(b).
  - a. The hearing will be scheduled for the earliest appropriate date, which ordinarily will be within 30 calendar days of the request. 45 C.F.R. § 1606.8(d).
  - b. The hearing procedures are described at 45 C.F.R. § 1606.8(e)–(l).
  - c. The impartial hearing officer will not have been involved in the current termination action and will be a person who has not formed a prejudgment on the case and does not have a pecuniary interest or personal bias in the outcome of the proceeding. The hearing officer may be an LSC employee. 45 C.F.R. § 1606.8(c).

## LSC PROGRAM LETTER 15-3—ENFORCEMENT MECHANISMS

3. *Within 20 calendar days* of the conclusion of the hearing, the hearing officer will issue a *written recommended decision* to adopt, modify, or reverse LSC's proposed termination, which will contain findings and the reasons for the decision. Findings will be based solely on the record, evidence adduced at the hearing, and matters subject to official notice. 45 C.F.R. § 1606.9.
4. If neither the grantee nor LSC appeals the recommended decision within *10 business days*, then it will be issued as a final decision with no further appeals. 45 C.F.R. § 1606.10(a).

### G. Appeal of a hearing officer's recommended decision for termination

1. *Within 10 business days after the recipient's receipt of the hearing officer's recommended decision*, the grantee or LSC may appeal the hearing officer's recommended decision to the LSC President. 45 C.F.R. § 1606.10(b)
2. The President will review the appeal. Unlike appeals of suspensions and limited reductions of funding, appeals of terminations permit the President to have been involved in the prior termination proceedings because the hearing officer provides the opportunity for impartial review. 45 C.F.R. § 1606.10(d)
3. The decision on appeal will be based on the record of the proceedings, including any additional materials that LSC requests. The grantee will have an opportunity to respond to those additional materials. Upon request, the Corporation shall provide a copy of the administrative record to the grantee. 45 C.F.R. § 1606.10(c)
4. *Within 30 days* the President will adopt, modify, or reverse the draft decision as the final decision, which cannot be appealed. The President may also direct further consideration of the matter. 45 C.F.R. § 1606.10(d)–(f)

## VII. Debarments

LSC may debar a grantee for up to six years from receiving an LSC grant or LSC funds from another LSC recipient. 45 C.F.R. §§ 1606.2 and 1606.11(d).

### A. Grounds for Debarment

1. LSC may initiate debarment proceedings on a *showing of good cause*. 45 C.F.R. § 1606.4(a).
2. *Good cause* means any of the following five occurrences.
  - a. *Summary termination* of financial assistance to the recipient through 45 C.F.R. Part 1640 based on violation of federal law relating to the proper use of federal funds;
  - b. *Termination of financial assistance in whole* of the most recent grant or contract of financial assistance under 45 C.F.R. § 1606.3;
  - c. *Substantial violation* (as defined at 45 C.F.R. § 1606.3(a)(2) and discussed above) by the recipient of the *restrictions delineated in 45 C.F.R. § 1610.2(a) and (b)* (listed below) that occurred *less than five years prior* to the notice initiating the debarment proceedings;

## LSC PROGRAM LETTER 15-3—ENFORCEMENT MECHANISMS

- d. *Knowing entry* by the recipient into:
  - i. *Any agreement or arrangement with an entity debarred* by the Corporation during the period of debarment if so precluded by the terms of the debarment, including, but not limited to, a subgrant, subcontract, or other similar agreement; or
  - ii. *An agreement for professional services with an independent public accountant or other auditor debarred* by the Corporation during the period of debarment if so precluded by the terms of the debarment; or
- e. The filing of a lawsuit by a recipient, provided that the lawsuit:
  - i. Was filed on behalf of the recipient as plaintiff, rather than on behalf of a client of the recipient;
  - ii. Named the Corporation, or any agency or employee of a Federal, State, or local government as a defendant;
  - iii. Seeks judicial review of an action by the Corporation or such government agency that affects the recipient's status as a recipient of Federal funding, except for a lawsuit that seeks review of whether the Corporation or agency acted outside of its statutory authority or violated the recipient's constitutional rights; and
  - iv. Was initiated after December 23, 1998.

45 C.F.R. § 1606.4(b).

### B. Debarment Procedures

1. The debarment procedures are the same as the termination procedures in 45 C.F.R. Part 1606 and described in section VI, above.
2. The *final debarment decision* shall state the effective date of the debarment and the period of debarment, which shall be commensurate with the seriousness of the cause for debarment. 45 C.F.R. § 1606.11(d).
3. The debarment shall *not be for longer than 6 years*. 45 C.F.R. § 1606.11(d).

ATTACHMENT A—Comparison Table from the Federal Register

ATTACHMENT B—45 C.F.R. § 1610.2 Restrictions Referred to in § VII.A.2.c —Debarments

LSC PROGRAM LETTER 15-3—ENFORCEMENT MECHANISMS

ATTACHMENT A

Comparison Table from 78 Fed. Reg. 10087 (Feb. 13, 2013)

<u>Limited Reductions</u>	<u>Termination</u>	<u>Debarment</u>	<u>Suspension</u>
§ 1606.2	§ 1606.2	§ 1606.2	§ 1623.2
Less than 5 Percent	5 percent or more		
<b>Type of Violation</b>			
Substantial violation § 1606.2	Substantial violation § 1606.2		Substantial violation § 1623.3(a) § 1606.2
	Substantial failure § 1606.3(a)(2)		
		Good cause § 1606.4(b)	
			Prompt action is necessary § 1623.3(a)
			Failure of an audit § 1623.3(b)
<b>Procedure</b>			
Preliminary Determination § 1606.6(a)	Preliminary Determination § 1606.6(a)	Preliminary Determination § 1606.6(a)	Proposed Determination § 1623.4(b)
Compliance Agreement (if available and agreed to) § 1606.7(a)	Compliance Agreement (if available and agreed to) § 1606.7(a)	Compliance Agreement (if available and agreed to) § 1606.7(a)	Prompt Corrective Action § 1623.2
Submission of Written Materials in Opposition to the Preliminary Determination (if no compliance agreement) § 1606.7(b)	Submission of Written Materials in Opposition to the Preliminary Determination (if no compliance agreement) § 1606.7(b)	Submission of Written Materials in Opposition to the Preliminary Determination (if no compliance agreement) § 1606.7(b)	Submission of Written Materials in Opposition to the Proposed Determination § 1623.4(f)
Informal Conference § 1606.7(b)–(e)	Informal Conference § 1606.7(b)–(e)	Informal Conference § 1606.7(b)–(e)	Informal Meeting § 1623.4(b)–(f)
Draft Final Decision § 1606.7(f)	Draft Final Decision § 1606.7(f)	Draft Final Decision § 1606.7(f)	Final determination § 1623.4(f)
	Hearing § 1606.8	Hearing § 1606.8	
	Recommended Decision § 1606.9	Recommended Decision § 1606.9	
Review by the LSC President § 1606.10	Review by the LSC President § 1606.10	Review by the LSC President § 1606.10	Review by the LSC President (for a suspension lasting more than 30 days not based on an audit failure) § 1623.4(h)
Final Decision § 1606.10(e)	Final Decision § 1606.10(e)	Final Decision § 1606.10(e)	Suspension Appeal Decision § 1623.4(h)(3)

LSC PROGRAM LETTER 15-3—ENFORCEMENT MECHANISMS

ATTACHMENT B

45 C.F.R. § 1610.2 Restrictions

45 C.F.R. § 1610.2 Restrictions Referred to in Section VII.A.2.c—Debarments

(a) Activities prohibited by the following sections of the LSC Act and regulations:

- (1) *Political activities*—Sections 1006(d)(3), 1006(d)(4), 1007(a)(6), and 1007(b)(4) and 45 C.F.R. Part 1608;
- (2) *Activities inconsistent with professional responsibilities*—Section 1007(a)(10) ;
- (3) *Fee-generating cases*—Section 1007(b)(1) and 45 C.F.R. Part 1609;
- (4) *Criminal proceedings*—Section 1007(b)(2) and 45 C.F.R. Part 1613;
- (5) *Actions collaterally challenging criminal convictions*—Section 1007(b)(3) and 45 C.F.R. Part 1615;
- (6) *Organizing activities*—Section 1007(b)(7) and 45 C.F.R. Part 1612;
- (7) *Abortion proceedings*—Section 1007(b)(8) ;
- (8) *School desegregation proceedings*—Section 1007(b)(9) ; and
- (9) *Proceedings involving violations of Military Selective Service Act or military desertion*—Section 1007(b)(10) .

(b) Activities prohibited by or inconsistent with the following sections of Public Law 104-134, 110 Stat. 1321 (1996) and LSC regulations:

- (1) *Redistricting*—Section 504(a)(1) and 45 C.F.R. Part 1632;
- (2) *Legislative and administrative advocacy*—Sections 504(a)( 2) through (6), as modified by Sections 504(b) and (e), and 45 C.F.R. Part 1612;
- (3) *Class actions*—Section 504(a)(7) and 45 C.F.R. Part 1617;
- (4) *Client identification and statement of facts*—Section 504(a)(8) and 45 C.F.R. Part 1636;
- (5) *Priorities*—Section 504(a)(9) and 45 C.F.R. Part 1620;
- (6) *Timekeeping*—Section 504(a)(10) and 45 C.F.R. Part 1635;
- (7) *Aliens*—Section 504(a)(11) and 45 C.F.R. Part 1626;
- (8) *Public policy training*—Section 504(a)(12) and 45 C.F.R. Part 1612;
- (9) *Abortion litigation*—Section 504(a)(14);
- (10) *Prisoner litigation*—Section 504(a)(15) and 45 C.F.R. Part 1637;
- (11) *Welfare reform*—Section 504(a)(16), as modified by Section 504(e), and 45 C.F.R. Part 1639;
- (12) *Drug-related evictions*—Section 504(a)(17) and 45 C.F.R. Part 1633; and
- (13) *In-person solicitation*—Section 504(a)(18) and 45 C.F.R. Part 1638.

# **Performance Management & Human Capital Management**



## MEMORANDUM

**TO: Operations and Regulations Committee**

**FROM: Traci L. Higgins**

**DATE: March 24, 2015**

**SUBJECT: Risk Management Update: Performance Management Policy and Human Capital Management**

---

This memorandum outlines the progress made since the first quarter of 2014 in implementing LSC's Performance Management Policy and its Human Capital Plan.

### **Performance Management Process**

The implementation of the revised Performance Management Process is under way. The 2014 process included Office Performance Plans, Employee Performance Plans, Employee Check-ins, Employee Self-Assessments, and Employee Assessments of Managers:

- **Office Performance Plans.** We are close to completing the second cycle of Office Performance Plans, which identify office goals and activities, performance standards, timelines, and how office goals and activities serve LSC's strategic goals.
- **Employee Performance Plans.** We are in the process of completing the second cycle of Employee Performance Plans, which are created annually to identify the work, consistent with the employee's position description, that the employee is expected to perform and how that work relates to the office performance plan and to LSC's strategic goals. Employee performance plans also identify areas for training and development that can be used to help the employee improve performance and grow.
- **Employee Check-in.** This is an informal meeting between the employee and his or her manager to review progress and identify any issues or concerns. The manager's assessment is captured on a one sheet that tracks the employee's progress against our eight core competencies, as well as progress on the training and professional development plan. Almost all of the 2014 Check-ins were completed during Q4 2014; a few remain outstanding.

- **Employee Self-Assessment and Employee Assessment of Manager.** We achieved 100% compliance on the Employee Self-Assessment (mandatory) and a fair number of employees elected to assess their manager, which could be done anonymously.
- **Process Adjustment.** Because the roll-out of our Performance Management Process began several months into 2014, we omitted two components of the process, Colleague Feedback and formal Manager Assessment of Employee. These components will be included in 2015.

### **Next steps**

- Complete the 2015 Employee Performance Plans
- Complete 2015 Check-ins in June
- Continue on-going communication between managers and employees about performance, new challenges, ideas.

### **Human Capital Management**

We have several initiatives under way:

1. **Director check-ins.** The Director of Human Resources continues to conduct regular bi-monthly meetings with office directors to address personnel concerns and training and professional development needs, with a focus on identifying appropriate resources and making them available to the employees.
2. **Microsoft Assessments.** LSC needs to improve the skillsets of its staff related to Microsoft Office applications (Word and Excel) and basic computer literacy. We have reached this conclusion based on observations made by the Office of Information Technology (OIT), including the results of a staff survey conducted in 2014, as well as observations made by the Office of Human Resources, various office directors, and Union representatives. In order to address the staff training needed to improve the use of these applications, we need to administer assessment tests to assess proficiency. Using the results, OIT's Training and Implementation Specialist, Jessie Posilkin, will group staff according to skill level and design training programs best suited to meet the needs of each group. We have selected a vendor and are planning to begin roll-out in April 2015.
3. **Leadership Engagement.** In June 2014 we engaged Cindy Zook Associates (CZA) to work with our leadership team. To date, CZA has provided two engagements: an August 2014 all-day session covering several topics, including decision-making and collaborative leadership. Our second engagement was a two hour session on conflict avoidance. CZA also is providing one-on-one coaching for managers.
4. **Recruitment and Hiring.** We successfully completed over a dozen searches in 2014. We have hired one Fiscal Compliance Analyst (April 1 start date) and are in the final interview stage with two others. Interviewing is also under way for the position of



Program Counsel in OPP, and we just posted an announcement for a General Ledger Accountant in OFAS. We also are in the process of hiring an Assistant General Counsel, a position for which we received nearly 200 applications.

# **Finance Committee**

# Agenda

# FINANCE COMMITTEE

April 13, 2015

## Agenda

### OPEN SESSION

1. Approval of agenda
2. Approval of the minutes of the meeting of January 23, 2015
3. Presentation of the LSC's Financial Report for the first five months of FY 2015
4. Consider and act on LSC's Revised Consolidated Operating Budget for FY 2015, **Resolution 2015-0XX**
  - Presentation by David Richardson, Treasurer/Comptroller
5. Report on the FY 2016 appropriations process
  - Presentation by Carol Bergman,  
Director of Government Relations & Public Affairs
6. Management discussion regarding process and timetable for FY 2017 Budget
  - Presentation by Carol Bergman,  
Director of Government Relations & Public Affairs
7. Public comment
8. Consider and act on other business
9. Consider and act on adjournment of meeting

**Draft Minutes of the January 23, 2015  
Open Session Meeting**

**Legal Services Corporation  
Meeting of the Finance Committee**

**Open Session**

**Friday, January 23, 2015**

**DRAFT**

Committee Chairman Robert J. Grey Jr. convened an open session meeting of the Legal Services Corporation's ("LSC") Finance Committee ("the Committee") at 8:31a.m. on Friday, January 23, 2015. The meeting was held at the Westin Colonnade Hotel, 180 Aragon Avenue, Coral Gables, Florida 33134.

The following Committee members were present:

Robert J. Grey Jr., Chairman  
Laurie I. Mikva  
Martha L. Minow  
Father Pius Pietrzyk, O.P.  
Robert E. Henley Jr. (Non-Director Member), by telephone  
Alan 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
Rebecca Fertig Cohen	Special Assistant to the President
Lynn Jennings	Vice President for Grants Management
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)
Wendy Rhein	Chief Development Officer
Carol Bergman	Director, Office of Government Relations and Public Affairs (GRPA)
Carl Rauscher	Director of Media Relations
Jeffrey E. Schanz	Inspector General

David Maddox	Assistant Inspector General for Management and Evaluation, Office of the Inspector General, (OIG)
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the Inspector General
Daniel O'Rourke	Assistant Inspector General for Investigations, Office of the Inspector General
Janet LaBella	Director, Office of Program Performance
Glenn Rawdon	Program Counsel, Office of Program Performance
Jane Ribadeneyra	Program Analyst, Office of Program Performance
Lora M. Rath	Director, Office of Compliance and Enforcement, (OCE)
Herbert S. Garten	Institutional Advancement Committee, Non-Director Member
Frank Strickland	Non-Director Member, Institutional Advancement Committee
Nicole Nelson	Executive Director, Alaska Legal Services Corporation
Rafael E. Rodriguez Rivera	Community Law Office, Inc. Puerto Rico
Charles Hey-Maestre	Executive Director, Puerto Rico Legal Services, Inc.
Anthony Young	Executive Director, Southern Arizona Legal Aid, Inc.
Judge Emerson Thompson	President, Florida Bar Foundation
Robin C. Murphy	National Legal Aid and Defenders Association (NLADA)
Don Saunders	National Legal Aid and Defenders Association (NLADA)

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. Mr. Levi seconded the motion.

**VOTE**

The motion passed by voice vote.

**MOTION**

Dean Minow moved to approve the minutes of the Committee's meeting of October 6, 2014. Father Pius seconded the motion

**VOTE**

The motion passed by voice vote.

Committee Chairman Grey summarized the Committee's evaluation for 2014 and goals for 2015. He invited comments from the Committee members. The Committee discussed working with the Audit Committee regarding budget issues.

Mr. Richardson presented the financial report for Fiscal Year 2014. He also provided a summary on LSC's Financial Reports for the first two-months of Fiscal Year 2015. He answered Committee members' questions.

Ms. Bergman briefed the Committee on the status of Fiscal Year 2015 and Fiscal Year 2016 appropriations. She answered Committee members' questions.

Mr. Richardson gave a report on the proposed Consolidated Operating Budget for Fiscal Year 2015, and the accompanying resolution. He answered Committee members' questions.

### **MOTION**

Dean Minow moved to recommend the proposed Consolidated Operating Budget for fiscal year 2015, and resolution to the Board for approval. Father Pius seconded the motion.

### **VOTE**

The motion passed by voice vote.

Mr. Richardson reported on Selection of Accounts and Depositories for LSC Funds and answered Committee members' questions.

Committee Chairman Grey invited public comment and receive none. There was no other business to consider.

### **MOTION**

Father Pius moved to adjourn the meeting. Dean Minow seconded the motion.

### **VOTE**

The Committee meeting adjourned at 9:05a.m.



# **Five-Month Financial Report for FY 2015**

## FINANCIAL & ADMINISTRATIVE SERVICES

### MEMORANDUM

**TO:** Robert J. Grey, Jr., Finance Committee Chairman  
**FROM:** David L. Richardson, Treasurer/Comptroller *dlr*  
**DATE:** March 30, 2015  
**SUBJECT:** February 2015 Financial Reports

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The financial report for the five-month period ending February 28, 2015 is attached. There are four attachments (some with multiple pages) that support this report, and we are using the fiscal year (FY) 2015 Consolidated Operating Budget (COB) that was approved at the January Board meeting for our comparisons.

Attachment A provides summary information for each element of the Temporary Operating Budget 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***. The expenditures are compared to the annual budget, and the report shows the variance for each budget line. The expenditures are also compared to the same period of the prior year.

I. There are six elements included in the Delivery of Legal Assistance:

1. The Basic Field Programs budget is \$343,612,147; the grant expenses through February total \$339,148,774. The grant expenses include Basic Field Programs of \$318,219,902, Native American of \$9,615,253, and Migrant of \$11,313,619. The remaining funds of \$4,463,373 are earmarked for a Michigan services area on short-term funding, for close-out audits to be conducted in Louisiana and New Jersey, and additional funds for American Samoa.
  2. The U.S. Court of Veterans Appeals Funds budget totals \$2,505,422, and there are no grant expenses.
  3. The Grants from Other Funds budget totals \$583,580, and no emergency or one-time grants have been awarded.
  4. The Technology Initiatives budget totals \$4,193,149, and there have been \$22,491 in TIG grants returned, which increases the available funds to \$4,215,640. These funds will be used to support the FY 2015 competitive awards process, which is under way, with a target of providing awards by September 30.
  5. The Hurricane Sandy Disaster Relief Funds budget totals \$75,959; there are no grant expenses.
  6. The Pro Bono Innovation Fund budget is \$4,000,000. This year's competitive grant process is under way, with a target to make all awards by September 30.
- II. The Herbert S. Garten Loan Repayment Assistance Program's budget is \$2,408,419; there are no loan expenses for the period.

The second section of Attachment A presents expenditures for MGO and the OIG. The expenditures are compared to a pro rata allocation of the annual budget based on the number of months of the fiscal year covered by the reporting period.

- III. MGO's annual budget totals \$25,033,796. The budget is comprised of the MGO operating budget of \$20,400,000, the MGO Research Initiative of \$66,622, and the MGO Contingency Funds totaling \$4,567,174.

The MGO operating budget allocation for this reporting period is \$8,500,000, compared to the actual expenses of \$7,142,419. LSC is under budget by \$1,357,581 or 15.97%, and the encumbrances are \$474,478. The expenditures are \$247,644 more than the same period in 2014.

The MGO Research Initiative budget allocation is \$27,759, and there are no expenses.

The MGO Contingency Funds allocation is \$1,902,989, and there are no expenses.

- IV. The OIG's annual budget totals \$5,151,271. The budget is comprised of the OIG operating budget of \$4,950,600, and Contingency Funds of \$200,671.

The budget allocation is \$2,062,750, compared to actual expenses of \$1,917,928. The OIG is \$144,822 or 7.02%, under budget, and the encumbrances are \$122,840. The expenditures are \$185,228 less than in 2014.

The OIG Contingency Funds allocation is \$83,613, and there are no expenses.

Attachment B, page 1, presents comparative budgets and expenditures for MGO by cost center. Attachment B, page 2, shows the budgets and expenditures by budget category for the MGO operating budget. All cost centers and budget categories are under budget:

The largest variance under budget, totaling \$769,024, is in the Compensation and Benefits category. This amount represents 57% (\$769,024 divided by \$1,357,581) of this month's total MGO variance. The variance is predominantly because of open positions. The open positions as of February 28 are:

Legal Affairs – Staff Attorney;

Financial and Administrative Services – an accountant;

Program Performance – a Program Analyst and a Program Counsel;

Compliance and Enforcement – 3 Fiscal Compliance Analyst positions and a Program Counsel position; one Fiscal Compliance Analyst and a Program Counsel have been hired and will begin work on April 1, 2015; and

Information Management – Director of OIM.

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, shows a comparative OIG budget and expenditures by budget category. The OIG is under budget in total; however, the consulting line is over budget for this five-month period due to the timing of audit consulting expenses, which occur early in the fiscal year.

If you have any questions, please let me know.

Attachments (A – B – C - D)

cc Board of Directors  
President  
Corporate Secretary  
Inspector General

LEGAL SERVICES CORPORATION  
CONSOLIDATED OPERATING BUDGET WORKSHEET  
FOR THE FIVE-MONTH PERIOD ENDING FEBRUARY 28, 2015  
FOR FISCAL YEAR 2015

	(1)	(2)	(3)	(4)		(5)	(6)	(7)		(8)
				ANNUAL BUDGET	ACTUAL			VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	
<b>I. DELIVERY OF LEGAL ASSISTANCE</b>										
1. Basic Field Programs	343,612,147	339,148,774	\$343,612,147	\$4,463,373	1.30		\$0	333,685,379	\$5,463,395	
2. US Court of Vets Appeals Funds	2,505,422	-	2,505,422	2,505,422	100.00		-	-	-	
3. Grants From Other Funds	583,580	-	583,580	583,580	100.00		-	-	-	
4. Technology Initiatives	4,193,149	(22,491)	4,193,149	4,215,640	100.54		-	3,068,495	(3,090,986)	
5. Hurricane Sandy Disaster Relief Funds	75,959	-	75,959	75,959	100.00		-	-	-	
6. Pro Bono Innovation Funds	4,000,000	-	4,000,000	4,000,000	100.00		-	-	-	
<b>TOTAL DELIVERY OF LEGAL ASSISTANCE</b>	<b>354,970,257</b>	<b>339,126,283</b>	<b>354,970,257</b>	<b>15,843,974</b>	<b>4.46</b>		<b>-</b>	<b>336,753,874</b>	<b>2,372,409</b>	
<b>II. HERBERT S. GARTEN LOAN REPAYMENT ASSISTANCE PROGRAM</b>										
	2,408,419	-	2,408,419 *	2,408,419	100.00		-	-	-	
<b>III. MANAGEMENT &amp; GRANTS OVERSIGHT</b>										
1. MGO Operating Budget	20,400,000	\$7,142,419	8,500,000	1,357,581	15.97		474,478	6,894,775	247,644	
2. MGO Research Initiative	66,622	-	27,759	27,759	100.00		41,667	83,333	(83,333)	
3. MGO Contingency Funds	4,567,174	-	1,902,989	1,902,989	100.00		-	-	-	
<b>TOTAL MANAGEMENT &amp; GRANTS OVERSIGHT</b>	<b>25,033,796</b>	<b>7,142,419</b>	<b>10,430,748</b>	<b>3,288,329</b>	<b>31.53</b>		<b>516,145</b>	<b>6,978,108</b>	<b>164,311</b>	
<b>IV. INSPECTOR GENERAL</b>										
1. I G Operating Budget	4,950,600	1,917,928	2,062,750	144,822	7.02		122,840	2,103,156	(185,228)	
2. I G Contingency Funds	200,671	-	83,613	83,613	100.00		-	-	-	
<b>TOTAL INSPECTOR GENERAL</b>	<b>5,151,271</b>	<b>1,917,928</b>	<b>2,146,363</b>	<b>228,435</b>	<b>10.64</b>		<b>122,840</b>	<b>2,103,156</b>	<b>(185,228)</b>	
<b>TOTAL</b>	<b>\$387,563,743</b>	<b>\$348,186,630</b>	<b>\$369,955,787</b>	<b>\$21,769,157</b>			<b>\$638,985</b>	<b>\$345,835,138</b>	<b>\$2,351,492</b>	

\* \$477,261 LRAP ACCOUNTS RECEIVABLE

LEGAL SERVICES CORPORATION  
CONSOLIDATED OPERATING BUDGET WORKSHEET  
FOR THE FIVE-MONTH PERIOD ENDING FEBRUARY 28, 2015  
FOR FISCAL YEAR 2015

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
ANNUAL BUDGET	ACTUAL	FIVE-TWELFTHS OF THE FY 2015 COB	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUMBRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
							C O M P A R A T I V E
1. Board of Directors	\$377,050	\$157,104	\$40,140	25.55	\$0	\$108,701	\$8,263
2. Executive Office	1,321,850	550,771	38,211	6.94	-	356,903	155,657
3. Legal Affairs	1,372,150	485,137	86,592	15.15	53,466	461,792	23,345
4. Government Relations/Public Affairs	1,102,200	440,072	19,178	4.18	5,176	385,054	55,018
5. Human Resources	777,600	266,007	57,993	17.90	17,896	269,197	(3,190)
6. Financial & Admin Services	3,779,600	1,352,992	221,841	14.09	1,596	1,326,106	26,886
7. Information Technology	1,889,350	627,392	159,837	20.30	368,453	544,793	82,599
8. Program Performance	4,594,950	1,624,005	290,558	15.18	0	1,646,252	(22,247)
9. Information Management	604,775	163,330	88,660	35.18	9,391	234,553	(71,223)
10. Compliance & Enforcement	4,580,475	1,908,531	354,571	18.58	18,500	1,561,424	(7,464)
<b>MANAGEMENT &amp; GRANTS OVERSIGHT SUBTOTAL</b>	<b>\$20,400,000</b>	<b>\$8,500,000</b>	<b>\$1,357,581</b>	<b>15.97</b>	<b>\$474,478</b>	<b>\$6,894,775</b>	<b>\$247,644</b>
11. M & G O Research Initiative	66,622	-	27,759	100.00	41,667	83,333	(83,333)
12. M & G O Contingency Funds	4,567,174	-	1,902,989	100.00	-	-	-
<b>TOTAL MANAGEMENT &amp; GRANTS OVERSIGHT</b>	<b>\$25,033,796</b>	<b>\$10,430,748</b>	<b>\$3,288,329</b>	<b>31.53</b>	<b>\$516,145</b>	<b>\$6,978,108</b>	<b>\$164,311</b>

III. MANAGEMENT & GRANTS OVERSIGHT

- 1. Board of Directors
- 2. Executive Office
- 3. Legal Affairs
- 4. Government Relations/Public Affairs
- 5. Human Resources
- 6. Financial & Admin Services
- 7. Information Technology
- 8. Program Performance
- 9. Information Management
- 10. Compliance & Enforcement
- MANAGEMENT & GRANTS OVERSIGHT SUBTOTAL**
- 11. M & G O Research Initiative
- 12. M & G O Contingency Funds
- TOTAL MANAGEMENT & GRANTS OVERSIGHT**

LEGAL SERVICES CORPORATION  
FINANCIAL REPORT BY BUDGET CATEGORY  
FOR THE PERIOD ENDING FEBRUARY 28, 2015  
FOR FISCAL YEAR 2015  
MANAGEMENT AND GRANTS OVERSIGHT

	(1)	(2)	(3)	(4)		(5)	(6)		(7)	(8)
	ANNUAL BUDGET	ACTUAL	FIVE - TWELFTHS OF THE FY 2015 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUMBRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)	C O M P A R A T I V E	
TOTAL COMP./BENEFITS	14,567,700	5,320,226	6,069,875	749,649	12.35	-	5,196,603	123,623		
TEMP. EMPLOYEE PAY	588,650	185,689	245,271	59,582	24.29	-	323,068	(137,379)		
CONSULTING	923,200	221,034	384,666	163,632	42.54	364,569	75,667	145,367		
TRAVEL/TRANSPORTATION EXPS	1,139,900	292,783	474,959	182,176	38.36	-	340,642	(47,859)		
COMMUNICATIONS	119,825	29,684	49,928	20,244	40.55	-	31,076	(1,392)		
OCCUPANCY COST	1,800,500	714,135	750,208	36,073	4.81	-	712,500	1,635		
PRINTING & REPRODUCTION	108,150	28,917	45,062	16,145	35.83	5,176	21,600	7,317		
OTHER OPERATING EXPENSES	930,075	337,961	387,531	49,570	12.79	104,733	273,845	64,116		
CAPITAL EXPENDITURES	222,000	11,990	92,500	80,510	87.04	-	4,803	7,187		
<b>TOTAL</b>	<b>\$20,400,000</b>	<b>7,142,419</b>	<b>8,500,000</b>	<b>1,357,581</b>	<b>15.97</b>	<b>\$474,478</b>	<b>6,979,804</b>	<b>162,615</b>		



LEGAL SERVICES CORPORATION  
FINANCIAL REPORT BY BUDGET CATEGORY  
FOR THE PERIOD ENDING FEBRUARY 28, 2015  
FOR FISCAL YEAR 2015  
MANAGEMENT AND GRANTS OVERSIGHT CONTINGENCY FUNDS

BUDGET CATEGORY	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	ANNUAL BUDGET	ACTUAL	FIVE - TWELFTHS OF THE FY 2015 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUMBRANCES	PRIOR Y-T-D ACTUAL	VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
TOTAL COMP./BENEFITS	\$2,694,633	-	1,122,763	1,122,763	-	-	-	-
TEMP. EMPLOYEE PAY	-	-	-	-	-	-	-	-
CONSULTING	-	-	-	-	-	-	-	-
TRAVEL/TRANSPORTATION EXPS	-	-	-	-	-	-	-	-
COMMUNICATIONS	-	-	-	-	-	-	-	-
OCCUPANCY COST	-	-	-	-	-	-	-	-
PRINTING & REPRODUCTION	-	-	-	-	-	-	-	-
OTHER OPERATING EXPENSES	1,872,541	-	780,226	780,226	-	-	-	-
CAPITAL EXPENDITURES	-	-	-	-	-	-	-	-
TOTAL	\$4,567,174	-	1,902,989	1,902,989	\$0	-	-	-

LEGAL SERVICES CORPORATION  
OPERATING EXPENSES FOR FISCAL YEAR 2015  
FOR THE PERIOD ENDING FEBRUARY 28, 2015  
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	-	487,099	396,724	391,252	245,484	444,830
TEMPORARY EMPLOYEE PAY	-	3,542	23,068	8,885	-	-
CONSULTING	31,692	7,336	45,303	-	12,854	-
TRAVEL/TRANSPORTATION EXPS	78,851	10,149	5,395	11,379	601	4,768
COMMUNICATIONS	1,077	1,499	963	1,910	593	1,472
OCCUPANCY COST	-	-	-	-	-	714,135
PRINTING & REPRODUCTION	-	-	-	10,975	-	17,942
OTHER OPERATING EXPENSES	5,344	2,935	13,684	15,671	5,492	164,456
CAPITAL EXPENDITURES	-	-	-	-	983	5,389
<b>TOTAL</b>	<b>\$116,964</b>	<b>\$512,560</b>	<b>\$485,137</b>	<b>\$440,072</b>	<b>\$266,007</b>	<b>\$1,352,992</b>
BUDGET CATEGORY	INFORMATION TECHNOLOGY	PROGRAM PERFORMANCE	INFORMATION MANAGEMENT	COMPLIANCE & ENFORCEMENT	TOTAL MGT & GRANTS OVERSIGHT	
COMPENSATION & BENEFITS	397,366	1,416,431	156,692	1,384,348	5,320,226	
TEMPORARY EMPLOYEE PAY	-	73,194	-	77,000	185,689	
CONSULTING	88,543	35,306	-	-	221,034	
TRAVEL/TRANSPORTATION EXPS	5,715	88,332	-	87,593	292,783	
COMMUNICATIONS	10,961	6,434	26	4,749	29,684	
OCCUPANCY COST	-	-	-	-	714,135	
PRINTING & REPRODUCTION	-	-	-	-	28,917	
OTHER OPERATING EXPENSES	119,189	4,308	6,612	270	337,961	
CAPITAL EXPENDITURES	5,618	-	-	-	11,990	
<b>TOTAL</b>	<b>\$627,392</b>	<b>\$1,624,005</b>	<b>\$163,330</b>	<b>\$1,553,960</b>	<b>\$7,142,419</b>	

OTHER OPERATING EXPENSES FOR THE FIVE - MONTH PERIOD ENDING FEBRUARY 28, 2015					
ACCOUNT CODES	DESCRIPTION	ANNUAL BUDGET	ACTUAL	FIVE -TWELFTHS OF THE FY 2015 BUDGET	UNDER / (OVER) BUD VS ACT VARIANCE
		\$930,075.00	337,961.00	387,531.00	49,570.00
	<b>EQUIPMENT RENTAL</b>				
5600	BOARD OF DIRECTORS			574.00	
	FINANCIAL & ADMIN SERVICES			2,096.85	
	INFORMATION TECHNOLOGY			46,853.54	
	<b>TOTAL</b>				49,524.39
5610	<b>OFFICE SUPPLIES</b>				20,737.15
	FINANCIAL & ADMIN SERVICES			16,751.12	
	INFORMATION TECHNOLOGY			3,986.03	
	<b>TOTAL</b>				20,737.15
5611	<b>OFFICE EQUIPMENT</b>				29,517.23
	GOVERNMENT RELATIONS/PUBLIC AFFAIRS			69.55	
	HUMAN RESOURCES			164.21	
	FINANCIAL & ADMIN SERVICES			1,680.07	
	INFORMATION TECHNOLOGY			27,603.40	
	<b>TOTAL</b>				29,517.23
5620	<b>COMMERCIAL INSURANCE</b>				87,077.75
	FINANCIAL & ADMIN SERVICES			87,077.75	
	<b>TOTAL</b>				87,077.75
5640	<b>DATA PROCESSING</b>				91,545.54
	LEGAL AFFAIRS			9,537.06	
	GOVERNMENT RELATIONS/PUBLIC AFFAIRS			15,601.40	
	HUMAN RESOURCES			100.00	
	FINANCIAL & ADMIN SERVICES			28,184.81	
	INFORMATION MANAGEMENT			72.64	
	INFORMATION TECHNOLOGY			37,750.63	
	<b>TOTAL</b>				91,545.54
5650	<b>ADVERTISING &amp; CLIPPING SERVICES</b>				12,058.62
	BOARD OF DIRECTORS			4,770.00	
	HUMAN RESOURCES			3,480.02	
	OFFICE OF PROGRAM PERFORMANCE			3,808.60	
	<b>TOTAL</b>				12,058.62

OTHER OPERATING EXPENSES FOR THE FIVE - MONTH PERIOD ENDING FEBRUARY 28, 2015					
ACCOUNT CODES	DESCRIPTION	ANNUAL BUDGET	ACTUAL	FIVE -TWELFTHS OF THE FY 2015 BUDGET	UNDER / (OVER) BUD VS ACT VARIANCE
		\$930,075.00	337,961.00	387,531.00	49,570.00
	<b>DUES &amp; MEMBERSHIPS</b>				
5660	HUMAN RESOURCES			75.00	
	FINANCIAL & ADMIN SERVICES			28.00	
	INFORMATION TECHNOLOGY			500.00	
	<b>TOTAL</b>				752.00
5670	<b>SUBSCRIPTIONS</b>				
	LEGAL AFFAIRS			3,998.00	
	FINANCIAL & ADMIN SERVICES			501.00	
	INFORMATION MANAGEMENT			3,145.26	
	OFFICE OF COMPLIANCE AND ENFORCEMENT			269.74	
	<b>TOTAL</b>				7,914.00
5680	<b>EMPLOYEE LECTURES/OTHER ACT.</b>				
	HUMAN RESOURCES			171.53	
	FINANCIAL & ADMIN SERVICES			17,101.35	
	<b>TOTAL</b>				17,272.88
5690	<b>OFFICE EXPENSES</b>				
	EXECUTIVE OFFICE			0.10	
	CHIEF DEVELOPMENT UNIT			2,935.00	
	HUMAN RESOURCES			1,501.21	
	FINANCIAL & ADMIN SERVICES			11,034.79	
	INFORMATION TECHNOLOGY			2,495.00	
	PROGRAM PERFORMANCE			200.00	
	INFORMATION MANAGEMENT			3,393.76	
	<b>TOTAL</b>				21,559.86
	<b>TOTAL OTHER OPERATING EXPENSES</b>				<b>\$337,959.42</b>

LEGAL SERVICES CORPORATION  
FINANCIAL REPORT BY BUDGET CATEGORY  
FOR THE PERIOD ENDING FEBRUARY 28, 2015  
FOR FISCAL YEAR 2015  
INSPECTOR GENERAL

(1) ANNUAL BUDGET	(2) ACTUAL	(3) FISCAL YEAR 2015			(5) % OF VARIANCE UNDER / (OVER)	(6) ENCUM- BRANCES	(7) C O M P A R A T I V E		(8) VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR)
		(4) FIVE - TWELFTHS OF THE FY 2015 BUDGET	(4) VARIANCE BUD VS ACT UNDER / (OVER)	(4) BUD VS ACT UNDER / (OVER)			(7) PRIOR Y-T-D ACTUAL	(7) PRIOR Y-T-D ACTUAL	
TOTAL COMP./BENEFITS	\$4,005,600	1,669,001	88,688	5.31	-	1,735,482	(155,169)		
TEMP. EMPLOYEE PAY	20,000	8,333	6,458	77.50	-	6,377	(4,502)		
CONSULTING	430,000	179,167	(29,706)	(16.58)	121,047	212,771	(3,898)		
TRAVEL/TRANSPORTATION EXPS	280,000	84,833	31,834	27.29	1,793	98,406	(13,573)		
COMMUNICATIONS	35,000	7,943	6,640	45.53	-	12,439	(4,496)		
OCCUPANCY COST	11,000	-	4,583	100.00	-	-	-		
PRINTING & REPRODUCTION	18,000	5,135	2,365	31.53	-	6,918	(1,783)		
OTHER OPERATING EXPENSES	86,000	22,081	13,752	38.38	-	21,824	257		
CAPITAL EXPENDITURES	65,000	6,875	20,208	74.62	-	8,939	(2,064)		
<b>TOTAL</b>	<b>\$4,950,600</b>	<b>2,062,750</b>	<b>144,822</b>	<b>7.02</b>	<b>\$122,840</b>	<b>2,103,156</b>	<b>(185,228)</b>		

LEGAL SERVICES CORPORATION  
FINANCIAL REPORT BY BUDGET CATEGORY  
FOR THE PERIOD ENDING FEBRUARY 28, 2015  
FOR FISCAL YEAR 2015  
INSPECTOR GENERAL CONTINGENCY FUNDS

BUDGET CATEGORY	(1)	(2)	(3)	(4)		(5)	(6)	(7)		(8)
	ANNUAL BUDGET	ACTUAL	FIVE - TWELFTHS OF THE FY 2015 BUDGET	VARIANCE BUD VS ACT UNDER / (OVER)	% OF VARIANCE UNDER / (OVER)	ENCUMBRANCES	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	200,671	-	83,613	83,613	-	-	-	-	-	
CAPITAL EXPENDITURES	-	-	-	-	-	-	-	-	-	
<b>TOTAL</b>	<b>\$200,671</b>	-	<b>83,613</b>	<b>83,613</b>	-	<b>\$0</b>	-	-	<b>\$0</b>	

**Revised Consolidated Operating Budget  
FY 2015**

## FINANCIAL & ADMINISTRATIVE SERVICES

### MEMORANDUM

**TO:** Robert J. Grey, Jr., Finance Committee Chairman

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

**DATE:** March 31, 2015

**SUBJECT:** Consolidated Operating Budget & Internal Budgetary Adjustments

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We have completed a review of our budget and expenses that is described in Section 3 of LSC *Guidelines for Adoption, Review and Modification of the Consolidated Operating Budget (Guidelines)*. Following these *Guidelines*, each office director reviews his or her office's expenses for the four-month period ending January 31, and provides a projection of spending for the remainder of the fiscal year. Based on this review, staff recommendations are made to the President for internal budgetary adjustments (adjustments), and the President has the authority to approve adjustments up to \$75,000. The office and budget category adjustments over \$5,000 that the President has approved are as follows:

- Financial and Administrative Services – The Consulting budget category has been increased by \$25,000 to fund an update of our financial software. These funds are available because we are projecting lower pass-through occupancy costs.
- Office of Program Performance – The Temporary Employee Pay and Travel and Transportation budget categories have been increased by \$67,500 and by \$6,500, respectively. Because of internal moves of Program Counsel to new positions overseeing expanded special grants programs (the Pro Bono Innovation Fund and the Midwest Disaster grant program), and because two program visits that were scheduled for one week have been extended to two weeks, additional temporary employees are needed to staff program visits. The \$74,000 to fund these additional costs is available from Compensation and Benefits because filling vacant positions has taken longer than we anticipated



Adjustments over \$75,000 need approval from the Finance Committee and the Board. The adjustments needing your approval are as follows:

- Legal Affairs – The Consulting budget category needs an increase of \$90,000 because of anticipated higher outside counsel costs. A portion of these funds, \$25,000, is available from Compensation and Benefits because of the departure of a staff attorney, and the other \$65,000 is available from the Office of Compliance and Enforcement because of unfilled positions.
- Information Technology – Temporary Employee Pay needs \$7,000 to accommodate the hiring of a summer intern, and Other Operating Expenses requires an increase of \$45,000 because of additional software costs, maintenance of our network, and security costs for the network systems. Compensation and Benefits had an excess of \$37,000 because of the departure of an employee and the time it took to fill the position. The remaining \$15,000 is available from the Office of Compliance and Enforcement.
- Compliance and Enforcement – Temporary Employee Pay needs to be increased by \$10,000 to provide for temporary hires for grantee visits. Because of open positions, \$90,000 is available from the Compensation and Benefits budget category to support the anticipated needs of Legal Affairs and Information Technology, and to provide for Compliance and Enforcement's temporary hires.

*FY 2015 OIG Five Month Budget Review*

The OIG conducted a review of expenses and there are no adjustments to the budget.

We ask that you approve the attached resolution for the COB with the changes discussed above. Attachment A presents the COB by line item and Attachment B summarizes each office's budget by budget category.

If you have any questions or need additional information, please let me know.

Attachments (3)

Resolution  
Attachment A  
Attachment B

LEGAL SERVICES CORPORATION  
 PROPOSED CONSOLIDATED OPERATING BUDGET  
 -----  
 FOR THE FISCAL YEAR 2015

	(1)	(2)	(3)	(4)		
	FY 2015 APPROPRIATION	FY 2014 CARRYOVER	COURT OF VETS APPEALS & ADJUSTMENTS	FY 2015 CONSOLIDATED OPERATING BUDGET	BUDGET REVISIONS	FY 2015 REVISED CONSOLIDATED OPERATING BUDGET
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<b>I. DELIVERY OF LEGAL ASSISTANCE</b>						
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1. Basic Field Programs	343,150,000	462,147	-	343,612,147	-	343,612,147
2. U.S. Court of Veterans Appeals Funds	-	5,422	2,500,000	2,505,422	-	2,505,422
3. Grants From Other Funds	-	536,238	47,342	583,580	-	583,580
4. Technology Initiatives	4,000,000	193,149	-	4,193,149	-	4,193,149
5. Hurricane Sandy Disaster Relief Funds	-	75,959	-	75,959	-	75,959
6. Pro Bono Innovation Funds	4,000,000	-	-	4,000,000	-	4,000,000
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DELIVERY OF LEGAL ASSISTANCE TOTALS	351,150,000	1,272,915	2,547,342	354,970,257	-	354,970,257
<b>II. HERBERT S. GARTEN</b>						
LOAN REPAYMENT ASSISTANCE PROGRAM						
	1,000,000	1,408,419	-	2,408,419	-	2,408,419
-----						
<b>III. MANAGEMENT &amp; GRANTS OVERSIGHT</b>						
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a. Board of Directors	-	-	-	377,050	-	377,050
b. Executive Office	-	-	-	1,321,850	-	1,321,850
c. Legal Affairs	-	-	-	1,372,150	65,000	1,437,150
d. Government Relations/Public Affairs	-	-	-	1,102,200	-	1,102,200
e. Human Resources	-	-	-	777,600	-	777,600
f. Financial & Administrative Services	-	-	-	3,779,600	-	3,779,600
g. Information Technology	-	-	-	1,889,350	15,000	1,904,350
h. Program Performance	-	-	-	4,594,950	-	4,594,950
l. Information Management	-	-	-	604,775	-	604,775
j. Compliance & Enforcement	-	-	-	4,580,475	(80,000)	4,500,475
	-----	-----	-----	-----	-----	-----
1. MGO Operating Budget	18,500,000	1,900,000	-	20,400,000	-	20,400,000
2. MGO Research Initiative	-	66,622	-	66,622	-	66,622
3. MGO Contingency Funds	-	4,567,174	-	4,567,174	-	4,567,174
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TOTAL - MANAGEMENT & GRANTS OVERSIGHT	18,500,000	6,533,796	-	25,033,796	-	25,033,796
<b>IV. INSPECTOR GENERAL</b>						
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1. OIG Operating Budget	4,350,000	600,600	-	4,950,600	-	4,950,600
2. OIG Contingency Funds	-	200,671	-	200,671	-	200,671
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TOTAL - OFFICE OF INSPECTOR GENERAL	4,350,000	801,271	-	5,151,271	-	5,151,271
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<b>TOTAL BUDGET</b>	<b>\$375,000,000</b>	<b>\$10,016,401</b>	<b>2,547,342</b>	<b>\$387,563,743</b>	<b>-</b>	<b>\$387,563,743</b>
	=====	=====	=====	=====	=====	=====

LEGAL SERVICES CORPORATION  
 PROPOSED CONSOLIDATED OPERATING BUDGET  
 FOR MANAGEMENT AND GRANTS OVERSIGHT  
 AND INSPECTOR GENERAL  
 FOR FISCAL YEAR 2015

BUDGET CATEGORY	BOARD OF DIRECTORS	EXECUTIVE OFFICES	LEGAL AFFAIRS	GOVERNMENT RELATIONS & PUB AFFS	HUMAN RESOURCES	OFFICE FINANCIAL & ADMIN SRVCS
COMPENSATION & BENEFITS	0	1,236,750	1,007,450	954,350	685,950	1,230,800
TEMP. EMPLOYEE PAY	0	14,100	70,200	31,950	0	12,400
CONSULTING	93,600	9,050	297,000	18,000	28,250	32,300
TRAVEL & TRANSPORTATION	222,450	49,300	17,900	44,300	45,100	21,100
COMMUNICATIONS	5,400	5,250	5,200	4,600	2,400	15,200
OCCUPANCY COSTS	0	0	0	0	0	1,775,000
PRINTING & REPRODUCTION	0	500	0	14,000	0	93,650
OTHER OPERATING EXPENSES	55,600	6,900	39,400	35,000	14,900	469,150
CAPITAL EXPENDITURES	0	0	0	0	1,000	130,000
TOTAL	<u>377,050</u>	<u>1,321,850</u>	<u>1,437,150</u>	<u>1,102,200</u>	<u>777,600</u>	<u>3,779,600</u>

BUDGET CATEGORY	INFORMATION TECHNOLOGY	PROGRAM PERFORM	INFORMATION MANGEMENT	COMPLIANCE & ENFORCE	MGT & GRNTS OVERSIGHT	INSPECTOR GENERAL
COMPENSATION & BENEFITS	993,800	3,764,500	576,500	3,881,250	14,331,350	4,005,600
TEMP. EMPLOYEE PAY	7,000	369,700	0	169,650	675,000	20,000
CONSULTING	414,000	83,500	0	60,000	1,035,700	430,000
TRAVEL & TRANSPORTATION	43,000	335,250	4,000	368,500	1,150,900	280,000
COMMUNICATIONS	42,300	20,900	75	20,500	121,825	35,000
OCCUPANCY COSTS	0	500	0	0	1,775,500	6,000
PRINTING & REPRODUCTION	0	0	0	0	108,150	18,000
OTHER OPERATING EXPENSES	312,250	20,600	24,200	575	978,575	286,671
CAPITAL EXPENDITURES	92,000	0	0	0	223,000	70,000
TOTAL	<u>1,904,350</u>	<u>4,594,950</u>	<u>604,775</u>	<u>4,500,475</u>	<u>20,400,000</u>	<u>5,151,271</u>



BOARD OF DIRECTORS

## RESOLUTION

### REVISED CONSOLIDATED OPERATING BUDGET FOR FISCAL YEAR 2015

**WHEREAS**, the Legal Services Corporation's ("LSC's") Management and the Inspector General have reviewed their respective operating expenses for the four-month period ending January 31, 2015, prepared projected expenses for the remainder of fiscal year ("FY") 2015, and provided information regarding internal budgetary adjustments (adjustments);

**WHEREAS**, the Board of Directors ("Board") of LSC has reviewed LSC's operating experience for the four-month period ending January 31, 2015, and also reviewed the adjustments made by the President and adjustments greater than \$75,000 for 2015;

**NOW, THEREFORE, BE IT RESOLVED** that the Board hereby approves the adjustments greater than \$75,000 and adopts a revised Consolidated Operating Budget for FY 2015 totaling \$387,563,743, of which \$354,970,257 is for the *Delivery of Legal Assistance*; \$2,408,419 is for the *Herbert S. Garten Loan Repayment Assistance Program*; \$25,033,796 is for *Management and Grants Oversight (MGO)*, of which \$20,400,000 is for operations, \$66,622 is for the Public Welfare Foundation Project, and \$4,567,174 is for MGO Contingency Funds; and \$5,151,271 is for the *Office of Inspector General (OIG)*, of which \$4,950,600 is for OIG operations and \$200,671 is for the OIG Contingency Funds, as reflected in the attached documents.

**Adopted by the Board of Directors  
On April 14, 2015**

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**John G. Levi**  
*Chairman*

Attest:

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

# **FY 2017 Budget Proposed Schedule**

**(Proposed) LSC Finance Committee/ Board Schedule for FY 2017 Budget**

<b>Week of April 13, 2015</b>	Finance Committee Meeting: discussion of FY17Budget Schedule
<b>Week of June 12, 2015</b>  (June 10, 2014)	Finance Committee Meeting (telephonic): Testimony from ABA, NLADA & others
<b>Week of June 22, 2015</b>  (June 24, 2014)	Finance Committee Meeting (telephonic): hear testimony from LSC Management re FY17 budget request; discussion
<b>Week of July 8, 2015</b>  (July 8, 2014)	Finance Committee Meeting (telephonic): consider budget recommendations from LSC Management & advocates; Vote on FY17 budget
<b>Week of July 17, 2015</b>  (July 21, 2014)	Board Meeting: Finance Committee makes recommendation to Board; discussion & vote on FY17 budget resolution
<b>Week of September 11, 2015</b>  (September 5, 2014)	LSC submits FY17 budget proposal to OMB.

## **Delivery of Legal Services Committee**



# Agenda

# **DELIVERY OF LEGAL SERVICES COMMITTEE**

**April 13, 2015**

## **Agenda**

### **Open Session**

1. Approval of Agenda
2. Approval of minutes of the Committee's meeting on January 23, 2015
3. Presentation on grantee oversight by the Office of Program Performance
  - a. Grantee Visits
  - b. Program Quality Visit Recommendations
  - c. Post-Program Quality Visit and Grantee Application Reviews
  - d. Special Grant Conditions
    - Lynn Jennings, Vice President for Grants Management
    - Janet LaBella, Director, Office of Program Performance
4. Public comment
5. Consider and act on other business
6. Consider and act on motion to adjourn the meeting

**Draft Minutes of the January 23, 2015  
Open Session Meeting**

**Legal Services Corporation  
Meeting of the  
Delivery of Legal Services Committee**

**Open Session**

**Friday, January 23, 2015**

**DRAFT**

Co-Chair Father Pius Pietrzyk convened an open session meeting of the Legal Services Corporation's ("LSC") Delivery of Legal Services Committee ("the Committee") at 11:20 a.m. on Friday, January 23, 2015. The meeting was held at the Westin Colonnade Hotel, 180 Aragon Avenue, Coral Gables 33134.

The following Committee members were present:

Father Pius Pietrzyk, Co-Chair  
Gloria Valencia-Weber, Co-Chair  
Victor Maddox  
Julie A. Reiskin  
John G. Levi, *ex officio*

Other Board members present:

Robert Grey  
Harry J.F. Korrell, III  
Martha Minow

Also attending were:

James J. Sandman	President
Rebecca Fertig Cohen	Special Assistant to the President
Lynn Jennings	Vice President for Grants Management
Ronald S. Flagg	Vice President for Legal Affairs, General Counsel & Corporate Secretary
Jeffrey Schanz	Inspector General
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel (OIG)
David Maddox	Assistant Inspector General for Management and Evaluation (OIG)
Daniel O'Rourke	Assistant Inspector General for Investigations (OIG)
Lora M. Rath	Director, Office of Compliance and Enforcement (OCE)
Janet LaBella	Director, Office of Program Performance (OPP)
Glenn Rawdon	Program Counsel, Office of Program Performance
Jane Ribadeneyra	Program Analyst, Office of Program Performance

Allan Tanenbaum	Non-Director Member, Finance Committee
Jim Cook	Executive Director, Idaho Legal Services
Christine Larson	Executive Director, Three Rivers Legal Services
Allison Thompson	former Executive Director, Three Rivers Legal Services
Kris Knab	Executive Director, Legal Services of North Florida
William Van Northwick	Akerman LLP
Nicole Nelson	Executive Director, Alaska Legal Services Corporation
Anthony Young	Executive Director, Southern Arizona Legal Aid, Inc.
Adi Martinez-Romang	Puerto Rico Legal Services Corporation
Rafael E. Rodriguez Rivera	Community Law Office
Charles S. Hey Maestre	Executive Director, Puerto Rico Legal Services Inc.
Melissa Pershing	Florida Bar Foundation
Kimberly Sanchez	Community Legal Services of Mid Florida
Barbara Prager	Executive Director, Coast to Coast Legal Aid of South Florida
Joan Boles	Deputy Director, Legal Services of North Florida
Don Isaac	Florida Rural Legal Services
Don Saunders	National Legal Aid and Defenders Association (NLADA)
Robin C. Murphy	National Legal Aid and Defenders Association (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 Co-Chairman Father Pius called the meeting to order.

### **MOTION**

Mr. Maddox moved to approve the minutes of the Committee's meeting of October 6, 2014. Ms. Reiskin seconded the motion.

### **VOTE**

The motion passed by voice vote.

### **MOTION**

Mr. Levi moved to approve the agenda. Mr. Maddox seconded the motion.

### **VOTE**

The motion passed by voice vote.

Committee Co-Chairman Father Pius summarized the Committee's evaluation for 2014 and goals for 2015. He invited comments from the Committee members. The Committee discussed ways to increase oversight of the quality of legal services.

Committee Co-Chairman Father Pius led the discussion on past and future topic presentations before the Committee. He invited comments the Committee members.

Mr. Rick Moyer panel moderator, Vice President for Programs and Communications, for The Meyer Foundation introduced the panelists: Jim Cook, Executive Director, Idaho Legal Services, Inc., Christine Larson, Executive Director, Three Rivers Legal Services, Allison Thompson, former Executive Director, three Rivers Legal Services, Inc.; Nicole Nelson, Executive Director, Alaska Legal Services Corporation, and Anthony Young, Executive Director, Southern Arizona Legal Aid, Inc. The panelists briefed the Committee on LSC's Performance Criteria, Performance Area Four - Criterion 2 – Leadership, and shared their experiences in transitioning to the leadership role in legal services and non-profit. Each panelist briefed the Committee on their personal careers in legal services and their transition from attorney to Executive Director. Mr. Moyer asked each panelist to brief the Committee on their personal experiences in leadership transitions. Next, each panelist discussed the operating environment in non-profit and LSC-funded organizations over the last twenty years, means of coping with under-staffing, and what elements enhance good transitions. Mr. Moyer and the panelists answered the Committee members' questions.

Committee Co-Chair Father Pius invited public comment and receive none.

There was no new business to consider.

### **MOTION**

Committee Co-Chair Valencia-Weber moved to adjourn the meeting. Mr. Maddox seconded the motion.

### **VOTE**

The motion passed by voice vote.

The Committee meeting adjourned at 12:34 p.m.

# **Governance and Performance Review Committee**

# Agenda



# GOVERNANCE AND PERFORMANCE REVIEW COMMITTEE

April 13, 2015

## Agenda

### OPEN SESSION

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting of January 22, 2015
3. Report on GAO inquiry
  - Carol Bergman, Director of Government Relations & Public Affairs
4. Report on Public Welfare Foundation grant, Midwest Disaster Preparedness Grant, and LSC's research agenda
  - Jim Sandman, President
5. Report on evaluations of LSC Comptroller, Vice President for Grants Management, and Vice President for Legal Affairs
  - Jim Sandman, President
6. Report on services of authority governing LSC board actions
  - Ron Flagg, Vice President & General Counsel
7. Consider and act on other business
8. Public comment
9. Consider and act on motion to adjourn meeting

## **CLOSED SESSION**

10. Consider prospective funders for research projects

- Jim Sandman, President

11. Consider and act on motion to adjourn meeting

**Draft Minutes of the January 22, 2015  
Open Session Meeting**

**Legal Services Corporation  
Meeting of the Governance and Performance Review Committee**

**Open Session**

**Thursday, January 22, 2015**

**DRAFT**

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 1:00 p.m. on Thursday, January 22, 2015. The meeting was held at the Westin Colonnade Hotel, 180 Aragon Avenue, Coral Gables, Florida 33134.

The following Board Members were present:

Martha L. Minow, Chair  
Charles N.W. Keckler  
Julie A. Reiskin  
John G. Levi, *ex officio*

Other Board members present:

Robert Grey  
Harry J. F. Korrell III  
Laurie Mikva  
Victor B. Maddox  
Father Pius Pietrzyk  
Gloria Valencia-Weber

Also attending were:

James J. Sandman	President
Rebecca Fertig Cohen	Special Assistant to the President
Lynn Jennings	Vice President for Grants Management
Ronald S. Flagg	Vice President for Legal Affairs, General Counsel and Corporate Secretary
Mark Freedman	Senior Assistant General Counsel, Office of Legal Affairs, by telephone
Stefanie Davis	Assistant General Counsel, Office of Legal Affairs, by telephone
Wendy Rhein	Chief Development Officer
David L. Richardson	Comptroller and Treasurer, Office of Financial & Administrative Services
Carol A. Bergman	Director, Office of Government Relations and Public Affairs
Carl Rauscher	Director of Media Relations, Office of Government Relations Public Affairs

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Page 1 of 3

Jeffrey E. Schanz	Inspector General
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the Inspector General
John Seeba	Assistant Inspector General for Audit, Office of the Inspector General, by telephone
David O'Rourke	Assistant Inspector General for Investigations, Office of the Inspector General
David Maddox	Assistant Inspector General for Management and Evaluation, Office of the Inspector General
Lora Rath	Director, Office of Compliance & Enforcement
Janet LaBella	Director, Office of Program Performance
Frank Strickland	Non-Director Member, Institutional Advancement Committee
Herbert Garten	Non-Director Member, Institutional Advancement Committee
Allan Tanenbaum	Non- Director Member, Finance Committee
Nicole Nelson	Executive Director, Alaska Legal Services Corporation
Mary Ryan	American Bar Association Pro Bono Committee
Don Saunders	National Legal Aid and Defenders Association (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 Board:

Committee Chair Minow called the open session meeting to order.

**MOTION**

Ms. Reiskin moved to approve the agenda. Mr. Keckler seconded the motion.

**VOTE**

The motion passed by voice vote.

**MOTION**

Ms. Reiskin moved to approve the minutes of the Committee's meetings of October 6, 2014 and November 17, 2014. Mr. Keckler seconded the motions.

**VOTE**

The motion passed by voice vote.

Ms. Bergman reported on the process and results of the Board and Committee evaluations and electronic survey. Ms. Bergman answered Committee members' questions.

Committee Chair Minow led the discussion on President Sandman's evaluation for 2014. She and Committee members commended President Sandman's outstanding achievements and leadership.

Next, Committee Chair Minow led the discussion on Inspector General Schanz's evaluation for 2014. Committee members praised the work of the Inspector General and his office. Mr. Schanz answered Committee members' questions.

Mr. Flagg briefed the Committee on the revised Code of Ethics and Conduct and resolution. He answered questions from the Committee.

### **MOTION**

Committee Chair Minow moved to approve a resolution recommending adoption of the revised Code of Ethics and Conduct policy with edits.

### **VOTE**

The motion passed by voice vote.

Mr. Flagg briefed the Committee on Management Transition Resources. He answered questions from the Committee.

President Sandman gave progress reports on the Public Welfare Foundation and Margaret A. Cargill Foundation grants.

There was no other business to consider.

Committee Chair Minow solicited public comment and received none.

### **MOTION**

Mr. Levi moved to adjourn the meeting. Father Pius seconded the motion.

### **VOTE**

The motion passed by voice vote.

The Committee meeting adjourned at 2:25 p.m.

# **Sources of Authority Governing LSC Board Actions**

# Sources of Authority Governing LSC Board Actions

## Administrative Requirements

### Compensation

- [LSC Act \(§ 1005\(d\): Compensation of Corporation Officers and Employees\)](#)
- [LSC Bylaws \(§ 6.10: Compensation\)](#)
- [Governance and Performance Review Committee Charter \(§ VI: Duties and Responsibilities\)](#) – The Committee annually reviews and reports to the Board on the performance and compensation of the President, Inspector General, and officers of the Corporation. It also conducts annual reviews of LSC’s compensation plan.
- [Resolution 2014-014 \(Revised Board of Directors Compensation Policy\)](#)
- [Resolution 2003-012 \(Fixing President’s Salary to Level V of the Executive Schedule\)](#)
- [Resolution 1999-003 \(Concerning the Inspector General’s Level of Compensation\)](#)

### Contracting

- [LSC Administrative Manual \(Chapter 1: Procurement and Contracting\)](#)

### LSC Business Travel

- [LSC Administrative Manual \(Chapter 5: Business Travel\)](#)

### Records Management

- [LSC Administrative Manual \(Chapter 15: LSC Records Management Policy\)](#)
- [Recordkeeping Policy \(LSC Code of Ethics and Conduct, p.12\)](#)

### Reporting and Tracking of Volunteer Hours

- [IRS Form 990](#)

## Board Governance

### Annual Disclosure of Outside Interests

- [LSC Bylaws \(§ 3.05: Outside Interests of Directors\)](#)



## **Board Committees**

- [LSC Bylaws \(Article V: Committees\)](#)
- [Audit Committee Charter](#)
- [Delivery of Legal Services Committee Charter](#)
- [Finance Committee Charter](#)
- [Governance and Performance Review Committee Charter](#)
- [Institutional Advancement Committee Charter](#)
- [Operations and Regulations Committee Charter](#)
- [Resolution 2013-001 \(Delegating to the Chairman Authority to Appoint the Membership and Designate the Chars of Board Committees\)](#)
- [Resolution 1995-004 \(The Jurisdiction of Board Committees\)](#)

## **Board Ethics and Conduct**

- [LSC Act \(§ 1005\(c\): Conflict of Interest\)](#)
- [Confidentiality Policy \(LSC Code of Ethics and Conduct, p. 3\)](#)
- [Conflicts of Interest Policy \(LSC Code of Ethics and Conduct, p. 4\)](#)
- [Equal Employment Opportunity Policy \(LSC Code of Ethics and Conduct, p. 23\)](#)
- [Fair Dealing Policy \(LSC Code of Ethics and Conduct, p. 17\)](#)
- [Leadership Responsibilities \(LSC Code of Ethics and Conduct, p. 2\)](#)
- [Protection of LSC Assets \(LSC Code of Ethics and Conduct, p. 15\)](#)
- [Whistleblower Protection Policy \(LSC Code of Ethics and Conduct, p. 18\)](#)

## **Board Meetings**

- [LSC Act \(§ 1004\(h\): Quarterly Meetings\)](#)
- [LSC Bylaws \(Article IV: Meetings of Directors\)](#)
- [Resolution 1984-005 \(Adopting Policy That Telephonic Transmission Constitutes Physical Presence at a Board Meeting\)](#)

## **Board Self-Evaluation Process**

- [Governance and Performance Review Committee Charter \(§ VI: Duties and Responsibilities\)](#)

## **Committee Self-Evaluation Process**

- [Governance and Performance Review Committee Charter \(§ VI: Duties and Responsibilities\)](#)
- [Resolution 2010-003 \(To Establish a Board Committee Self Evaluation Protocol\)](#)

## **Friends of Legal Services Corporation (FoLSC)**

- [Resolution 2004-003 \(Delegation to the Board Chair: Authority to Make an Appointment to the Board of FoLSC\)](#)

## **Risk Management**

- [Audit Committee Charter \(§ VIII: Duties and Responsibilities\)](#) – The Committee reports to and advises the Board on controls and mechanisms designed to minimize the risk of fraud, theft, corruption, and misuse of funds.
- [LSC Bylaws \(Article X: Indemnification\)](#)
- [LSC Risk Management Program](#)
- [Resolution 2013-019 \(Risk Management Oversight\)](#)

## **Terms of Office, Removal, and Resignation**

- [LSC Act \(§ 1004\(b\): Term of Office\)](#)
- [LSC Act \(§ 1004\(d\): Chairman\)](#)
- [LSC Act \(§ 1004\(e\): Removal\)](#)
- [LSC Bylaws \(Article III: Board of Directors\)](#)

## **LSC Management Oversight**

### **Annual Evaluations and Reviews**

- [Governance and Performance Review Committee Charter \(§ VI: Duties and Responsibilities\)](#)

- [Resolution 2011-002 \(Establishing a Plan for the Annual Review of LSC I.G.\)](#)
- [Resolution 1998-006 \(Procedure for the Annual Evaluation by the Board of the President or the Inspector General of the Corporation\)](#)

### **Audits and Financial Practices**

- [Audits and Financial Statements Policy \(LSC Code of Ethics and Conduct, p. 14\)](#)
- [Audit Committee Charter \(§ VIII: Duties and Responsibilities\)](#)
- [LSC Employee Handbook \(§ 2.5: Audit Committee Review of Complaints or Concerns Regarding Accounting, Internal Controls, and Auditing Issues\)](#)

### **Authority Delegated to LSC President, Officers, and Staff**

- [LSC Act \(§ 1005\(a\): Appointment of President; Officer Compensation and Terms\)](#)
- [LSC Bylaws \(Article VI: Officers\)](#)
- [Resolution 2014-020 \(Adopting a Health Reimbursement Arrangement Plan and Affirming the LSC President's Authority to Amend Employee Health Benefits\)](#)
- [Resolution 2012-011 \(Authorizing the President to Make Certain Internal Budgetary Adjustments in the Managements and Grants Oversight Account\)](#)
- [Resolution 1999-015 \(Authorizing the President to Enter into Employment with Corporation Officers\)](#)
- [Resolution 1992-001 \(Delegation of Authority to General Counsel to Review Executive Session Transcripts\)](#)
- [Resolution 1984-002 \(Policy Reaffirming Authority of President and Corporation's Staff\)](#)

### **Authority Delegated to the Office of Inspector General (OIG)**

- [Resolution 1995-003 \(Transfer of Certain Audit Responsibilities to the OIG\)](#)

### **Employee Ethics and Conduct**

- [LSC Bylaws \(§ 6.12: Outside Interests of Officers and Employees\)](#)
- [Resolution 2008-007 \(Adopting Code of Ethics and Conduct and Designating Ethics Officers\)](#) – Designated General Counsel as Ethics Officer with sole discretion and authority to implement the Code, except provisions relating to ethics and conduct of

General Counsel. Also ratified Inspector General's designation of Assistant Inspector General and Legal Counsel to serve as Ethics Officer for the OIG.

- [Confidentiality Policy \(LSC Code of Ethics and Conduct, p. 3\)](#)
- [Conflicts of Interest Policy \(LSC Code of Ethics and Conduct, p. 4\)](#)
- [Equal Employment Opportunity Policy \(LSC Code of Ethics and Conduct, p. 23\)](#)
- [Fair Dealing Policy \(LSC Code of Ethics and Conduct, p. 17\)](#)
- [Leadership Responsibilities \(LSC Code of Ethics and Conduct, p. 2\)](#)
- [Protection of LSC Assets \(LSC Code of Ethics and Conduct, p. 15\)](#)
- [Whistleblower Protection Policy \(LSC Code of Ethics and Conduct, p. 18\)](#)

## **Employee Grievance Procedures**

- [LSC Employee Handbook \(§ 11.4: Grievance Procedure\)](#)
- [Resolution 1997-005 \(Filing and Processing of Employee Grievances Against the President or Inspector General\)](#) – Requires the Board to take appropriate action on employee grievances against the President or Inspector General within 60 days after a grievance is filed or at the next scheduled Board meeting, whichever occurs later.

## **Employee Handbook**

- [Resolution 2014-002 \(Adopting Revisions to LSC's Employee Handbook\)](#) – Eliminated the requirement of Board approval for modification of major provisions of the Employee Handbook relating to personnel actions or policies.

## **Grantee Compliance**

- [LSC Act \(§ 1006\(b\)\(1\)\(A\): Authority to Insure Recipient Compliance\)](#)
- [Operations and Regulations Committee Charter \(§ VI: Duties and Responsibilities\)](#) – Reviews Corporation's monitoring and enforcement efforts to ensure grantee compliance.
- [Resolution 2008-008 \(Roles and Responsibilities of LSC Offices Responsible for Grantee Oversight\)](#)
- [Resolution 1988-001 \(Recipient's Refusal to Produce Requested Materials\)](#)

## **LSC Funds**

- [LSC Bylaws \(§ 7.01: Deposits and Accounts\)](#)
- [Resolution 2012-003 \(Selection of Accounts and Depositories for LSC Funds\)](#)

## **Outside Employment of Employees and Officers**

- [LSC Act \(§ 1005\(a\): Outside Compensation of Officers Prohibited\)](#)
- [Conflicts of Interest Policy \(LSC Code of Ethics and Conduct, p. 10\)](#)
- [LSC Employee Handbook \(§ 5.4: Outside Employment Policy\)](#)

## **Strategic Planning**

- [LSC Strategic Plan 2012-2016](#)

## **Fundraising**

### **Annual Gifts from Board Members**

- [Board Member Giving Policy](#) – Encourages all Board members to give annual gifts according to their means, at a level they deem appropriate.

### **Donor Rights**

- [Donor's Bill of Rights](#) – Includes the right of donors to be informed of the identity of LSC's Board members, to expect the Board to exercise prudent judgment in its stewardship responsibilities, and to be informed whether individuals seeking donations are Board members, employees, or volunteers of LSC.

### **Private Contributions**

- [Protocol for the Acceptance and Use of Private Contributions of Funds to LSC](#)
- [Protocol for the Acceptance and Use of Contributions for LSC Staff Events](#)
- [Protocol for the Acceptance and Use of In-Kind Contributions to LSC](#)
- [Resolution 2012-012 \(Modifying LSC's Protocol for Its Acceptance and Use of Private Contributions\)](#)

## **Statutory and Regulatory Requirements**

## **Authorized Communications with Congress**

- [LSC Act \(§ 1006\(c\)\(2\): Lobbying Activities\)](#) – Permits personnel of the Corporation to make appropriate communication with Congress or any State or local legislative bodies under a formal request or in connection with legislation or appropriations directly affecting the activities of the Corporation.
- [Finance Committee Charter \(§ VII: Duties and Responsibilities\)](#) – The Committee recommends to the Board the amount of each appropriation request prepared by the Corporation and reports to the Board the status of appropriation bills or other legislative proposals that may affect the finances of the Corporation.
- [Resolution 1998-007 \(Revised Communications Policy\)](#) – Requires the Board to be fully and currently informed of all material communications between LSC and Congress, including the LSC Annual Report and communications and reports prepared by the OIG.
- [Resolution 1994-023 \(Authorizing Board Chair or Designee to Act for the Board on Appropriations or Legislative Measures\)](#)

## **Freedom of Information Act (FOIA)**

- [LSC Act \(§ 1005\(g\): Applicability of FOIA\)](#)
- [LSC Regulations \(Part 1602: Procedures for Disclosure of Information under FOIA\)](#)
- [Freedom of Information Act \(5 U.S.C. § 552\)](#)

## **Government in the Sunshine Act**

- [LSC Act \(§ 1004\(g\): Applicability of Government in the Sunshine Act\)](#)
- [LSC Regulations \(Part 1622: Public Access to Meetings under Government in the Sunshine Act\)](#)
- [Government in the Sunshine Act \(5 U.S.C. § 552b\)](#)

## **Lobbying and Other Restricted Political Activities**

- [LSC Act \(§ 1006\(c\)\(2\): Lobbying Activities\)](#)
- [LSC Act \(§ 1006\(e\): Political Activities; Applicability of Hatch Act\)](#)
- [LSC Regulations \(Part 1612: Restrictions on Lobbying and Certain Other Activities\)](#)
- [Hatch Act \(5 U.S.C. Chapter 15\)](#)

- [LSC Administrative Manual \(Chapter 12: Congressional and Government Agency Correspondence and Public Affairs\)](#)
- [Restricted Political Activities \(LSC Code of Ethics and Conduct, p. 16\)](#)

## **Rulemaking**

- [LSC Act \(§ 1008\(e\): Publication in Federal Register of Rules, Regulations, Guidelines and Instructions\)](#)
- [LSC Rulemaking Protocol](#)
- [Operations and Regulations Committee Charter \(§ VI: Duties and Responsibilities\)](#) – Receives, proposes, reviews, and discusses proposed rules and rulemaking priorities.
- [Resolution 2012-008 \(Board of Directors Policy on Required Board Notice and Approval of Certain LSC Promulgations\)](#)
- [Resolution 1976-001 \(Publication of Proposed Regulations, Rules and Guidelines\)](#) – Original delegation of authority to the LSC President to publish proposed regulations, rules, and guidelines in the Federal Register for purposes of receiving public comment.

# **Audit Committee**



# Agenda

# **AUDIT COMMITTEE**

**April 13, 2015**

## **Agenda**

### **OPEN SESSION**

1. Approval of agenda
2. Approval of minutes of the Committee's January 22, 2015 meeting
3. Briefing by Office of Inspector General
  - Jeffrey Schanz, Inspector General
4. Management update regarding risk management
  - Ron Flagg, General Counsel
5. Briefing about referrals by the Office of Inspector General to the Office of Compliance and Enforcement including matters from the annual Independent Public Accountants audit of grantees
  - Lora M. Rath, Director, Office of Compliance and Enforcement
6. Consider and act on other business

### **Closed Session**

7. Approval of minutes of the Committee's closed session meeting on January 22, 2015
8. Briefing by Office of Compliance and Enforcement on active enforcement matter(s) and follow-up to open investigation referrals from OIG
  - Lora M. Rath, Director, Office of Compliance and Enforcement

9. Update on Office of Information Technology Audit

- Peter Campbell, Chief Information Officer

10. Consider and act on adjournment of meeting

**Draft Minutes of the January 22, 2015  
Open Session Meeting**

**Legal Services Corporation  
Meeting of the Audit Committee**

**Open Session**

**Thursday, January 22, 2015**

**DRAFT**

Chairman Victor B. Maddox convened an open session meeting of the Legal Services Corporation's ("LSC") Audit Committee ("the Committee") at 2:25 p.m. on Thursday, January 22, 2015. The meeting was held at the Westin Colonnade Hotel, 180 Aragon Avenue, Coral Gables, Florida 33134.

The following Committee members were in attendance:

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:

Robert J. Grey, Jr.  
Father Pius Pietrzyk, O.P.  
Laurie Mikva  
Martha L. Minow  
Julie A. Reiskin

Also in attendance were:

James Sandman	President
Rebecca Fertig Cohen	Special Assistant to the President
Lynn Jennings	Vice President for Grants Management
Ronald S. Flagg	Vice President for Legal Affairs, General Counsel & Corporate Secretary
Mark Freedman	Senior Assistant General Counsel, Office of Legal Affairs, by telephone
David L. Richardson	Treasurer and Comptroller, Office of Financial and Administrative Services
Wendy Rhein	Chief Development Officer
Jeffrey E. Schanz	Inspector General

David Maddox	Assistant Inspector General for Management and Evaluation, Office of the Inspector General (OIG)
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the Inspector General (OIG)
John Seeba	Assistant Inspector General for Audit, Office of the Inspector General (OIG), by telephone
David O'Rourke	Assistant Inspector General for Investigations, Office of the Inspector General (OIG)
Sophia Mason	Benefits Manager, Office of Human Resources (HR), by telephone
Carol Bergman	Director, Office of Government Relations and Public Affairs (GRPA)
Carl Rauscher	Director of Media Relations, Office of Government Relations and Public Affairs (GRPA)
Marcos Navarro	Office of Government Relations and Public Affairs (GRPA)
Wendy Long	Executive Assistant, Office of Government Relations and Public Affairs (GRPA)
Janet LaBella	Director, Office of Program Performance (OPP)
Lora M. Rath	Director, Office of Compliance and Enforcement (OCE)
Herbert Garten	Non-Director Member, Institutional Advancement Committee
Frank Strickland	Non-Director Member, Institutional Advancement Committee
Allan Tanenbaum	Non-Director Member, Finance Committee
Nicole Nelson	Executive Director, Alaska Legal Services Corporation
Bristow Hardin	Office of Program Performance (OPP)
Don Saunders	National Legal Aid and Defender Association (NLADA)
Lisa Wood	American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID)
Robin C. Murphy	National Legal Aid and Defender Association (NLADA)

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

Committee Chairman Maddox called the meeting to order.

### **MOTION**

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

### **VOTE**

The motion was approved by voice vote.

## **MOTION**

Professor Valencia-Weber moved to approve the minutes of the Committee's meeting of October 6, 2014. Mr. Snyder seconded the motion.

## **VOTE**

The motion passed by voice vote.

Committee Chairman Maddox summarized the Committee's evaluation for 2014 and goals for 2015. He invited comments from the Committee members. The Committee discussed ways to improve time management during meetings.

Mr. Seeba presented the FY 2014 Annual Financial Audit report from WithumSmith+Brown. He answered Committee members' questions.

Mr. Richardson briefed the Committee on the Form 990 Financial Statement for FY 2014. He answered Committee members' questions.

Mr. Schanz briefed the Committee on the reports the Office of the Inspector General (OIG) completed since the last Audit Committee meeting. The reports included OIG's audit staff credentials, and OIG's peer review system. Mr. Seeba briefed the Committee on OIG's audit processes. Mr. Schanz and Mr. Seeba answered Committee members' questions.

Mr. Flagg presented the revised LSC Risk Management matrix and answered Committee members' questions.

Ms. Rath provided a briefing on OCE's follow-up of referrals from the OIG regarding audit and investigation reports and the annual independent public accountants' audits of grantees. Ms. Rath answered Committee members' questions.

## **MOTION**

Committee Chairman Maddox moved to recommend adoption of resolution on the 403(b) Thrift Plan Amendments to the full Board. Professor Valencia-Weber seconded the motion.

## **VOTE**

The motion was approved by voice vote.

Committee Chairman Maddox invited public comment and received none.

There was no new business to consider.

**MOTION**

Mr. Korrell moved to authorize an executive session of the Committee meeting.  
Professor Valencia-Weber seconded the motion.

**VOTE**

The motion passed by voice vote.

The Committee continued its meeting in closed session at 3:36 p.m.



# **Risk Management Matrix**

<b>RISK TO LSC RESOURCES – PEOPLE</b>							
<b>Risks</b>			<b>Strategies</b>	<b>Who is responsible?</b>		<b>Last report to Board<sup>1</sup></b>	<b>Next report to Board</b>
	<b>Probability</b>	<b>Severity</b>		<b>Management</b>	<b>Board</b>		
<b>Board Leadership and Governance</b> -- Potential for problems	L	H	<ul style="list-style-type: none"> <li>• Good information flow from management (including legal, financial, programmatic information) and from the OIG and outside auditors</li> <li>• Training of board</li> <li>• Orientation of new board</li> <li>• Evaluations/self-assessments</li> <li>• Sufficient staff support</li> <li>• Staying abreast of best board governance practices</li> <li>• Staying abreast of stakeholder and client concerns</li> <li>• Periodic review of governing documents to assure compliance and relevancy</li> </ul>		Board, Chairman, Gov. & Performance Review Com.		4/15 (Compilation of authorities applicable to Board)
-- Board Transitions	M	M	<ul style="list-style-type: none"> <li>• Board transition plan</li> <li>• Board orientation</li> </ul>	Secretary	Board, Chairman, Gov. & Performance Review Com.		
<b>Management Leadership Transitions</b>					Gov. & Performance Review Com.		

<sup>1</sup> Tracking of risk management reports to the Board began with the Board meeting in 2013, and thus no dates before that year are recorded in this matrix.

RISK TO LSC RESOURCES – PEOPLE							
Risks			Strategies	Who is responsible?		Last report to Board <sup>1</sup>	Next report to Board
	Probability	Severity		Management	Board		
-- President	H	M	<ul style="list-style-type: none"> <li>• Presidential transition plan</li> </ul>	President		1/15	
-- Other senior leadership changes	M	M	<ul style="list-style-type: none"> <li>• Transition plan</li> </ul>	President	Gov. & Performance Review Com.	1/15	
<b>Management/IG Relations</b> -- Potential for problems	M	H	<ul style="list-style-type: none"> <li>• Communicate, coordinate, cooperate</li> <li>• Regular meetings</li> </ul>	President	Audit Com.	1/15	4/15
<b>Management Leadership Performance</b> -- Preventing leadership problems	L	H	<ul style="list-style-type: none"> <li>• Cohesive, effective management team</li> <li>• Emphasis on high standards</li> <li>• Regular communications with board, staff, grantees, public, OIG</li> <li>• Regular performance evaluations</li> </ul>	President	Gov. & Performance Review Com	4/6/14	
<b>Management System Risks</b> <ul style="list-style-type: none"> <li>■ Performance Management (failure to achieve performance of defined goals including implementation of LSC Strategic Plan)</li> </ul>	M	H	<ul style="list-style-type: none"> <li>• Create formal organizational management performance cycle including articulation of goals and metrics</li> <li>• Routine reporting of performance</li> <li>• Providing training to close competency gaps</li> </ul>	President OHR Director	Ops. & Regs. Com.	4/7/14	4/15 (Overall Performance Management)

RISK TO LSC RESOURCES – PEOPLE							
Risks			Strategies	Who is responsible?		Last report to Board <sup>1</sup>	Next report to Board
	Probability	Severity		Management	Board		
<ul style="list-style-type: none"> <li>■ Human Capital Management (failure to attract, motivate and retain high quality staff)</li> </ul>	M	H	<ul style="list-style-type: none"> <li>• Professional training for staff and managers</li> <li>• Routine performance evaluations and feedback</li> <li>• Robust communications with employees</li> </ul>	President OHR Director	Ops. & Regs. Com.	4/7/14	4/15
<ul style="list-style-type: none"> <li>■ Information Management (failure to collect and share vital information)</li> </ul>	M	H	<ul style="list-style-type: none"> <li>• Create a common data portal for collection and sharing of grantee data</li> </ul>	Vice President for Grants Management (VPGM) CIO	Ops. & Regs. Com.		
<ul style="list-style-type: none"> <li>■ Acquisitions Management (higher contract costs and possible areas of fraud, waste and abuse)</li> </ul>	M	H	<ul style="list-style-type: none"> <li>• Periodically review and strengthen procurement and contracting policies</li> <li>• Routine training of employees on policies</li> </ul>	Vice President for Legal Affairs (VPLA) Controller	Ops. & Regs. Com.	7/20/14	7/15
<b>Conflicts of Interest/Ethics Violations</b>	L	M	<ul style="list-style-type: none"> <li>• Training on ethics code</li> <li>• Reminders, emphasis on ethics</li> </ul>	Ethics Officer	Audit Com. Gov. & Performance Review Com	1/15	

<b>RISK TO LSC RESOURCES – FUNDING</b>							
<b>Risks</b>			<b>Strategies</b>	<b>Who is responsible?</b>		<b>Last report to Board</b>	<b>Next report to Board</b>
	<b>Probability</b>	<b>Severity</b>		<b>Management</b>	<b>Board</b>		
<b>Adequacy of Basic Field Funding</b> -- Insufficient funding to accomplish LSC’s mission of providing equal access to justice -- Funding cut so severely that programs must close altogether or radically cut back services	H	H	<ul style="list-style-type: none"> <li>Public education</li> <li>Strengthen congressional relationships</li> <li>Develop stronger data to support funding requests, including data on outcomes and economic benefits of legal aid</li> </ul>	Government Relations/ Public Affairs (GRPA) Director	Finance Com.	1/15	4/15
	H	H	<ul style="list-style-type: none"> <li>Develop crisis-mode messaging and network</li> </ul>	GRPA Director			
<b>Adequacy of MGO Funding</b> -- Insufficient Management and Grants Oversight funding	H	H	<ul style="list-style-type: none"> <li>Strengthen congressional relationships</li> <li>Emphasize quantifying return on investment from oversight funding</li> <li>Emphasize grants oversight function</li> <li>Respond to and implement GAO recommendations</li> </ul>	GRPA Director	Finance Com.	1/15	4/15
					Gov. & Perform. Review Com.	10/14	

			<ul style="list-style-type: none"><li>Continue to assess MGO expenses to reduce any unnecessary duplication and inefficiencies</li></ul>	VPGM			
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<b>RISK TO LSC RESOURCES –ASSETS</b>							
<b>Risks</b>			<b>Strategies</b>	<b>Who is responsible?</b>		<b>Last report to Board</b>	<b>Next report to Board</b>
	<b>Probability</b>	<b>Severity</b>		<b>Management</b>	<b>Board</b>		
<b>Internal Fraud</b>	L	H	<ul style="list-style-type: none"> <li>• Effective internal controls</li> <li>• IG oversight</li> <li>• Annual corporate audit</li> </ul>	Treasurer	Audit Com.		
			<ul style="list-style-type: none"> <li>• Staff training on ethics</li> </ul>	Ethics Officer			
<b>Internal Financial Controls</b> -- Failures at LSC	L	H	<ul style="list-style-type: none"> <li>• Management accountability</li> <li>• Annual audit</li> <li>• Board oversight</li> <li>• Regular review/update of Accounting Manual</li> <li>• Implement GAO recommendations and OMB guidance</li> </ul>	Treasurer	Audit Com.	10/20/13	
<b>Litigation</b> -- Employment	M	M	<ul style="list-style-type: none"> <li>• Regular training of managers</li> <li>• Clear-cut policies and uniform application</li> </ul>	OHR Director	Ops. & Regs. Com.		
			<ul style="list-style-type: none"> <li>• Effective negotiation and use of releases</li> </ul>	VPLA			
<b>Integrity of electronic data/ information</b> -- Potential for Problems -- Security of electronic data	M	H	<ul style="list-style-type: none"> <li>• Effective system back-ups</li> <li>• Effective disaster recovery</li> <li>• Regular staff training</li> <li>• Maintain qualified IT staff</li> <li>• Effective document and system security</li> <li>• Maintain up-to-date</li> </ul>	CIO	Audit Com.	7/20/14	3/15

<b>RISK TO LSC RESOURCES –ASSETS</b>							
<b>Risks</b>			<b>Strategies</b>	<b>Who is responsible?</b>		<b>Last report to Board</b>	<b>Next report to Board</b>
	<b>Probability</b>	<b>Severity</b>		<b>Management</b>	<b>Board</b>		
			technology				
<b>Accuracy of grantee data</b> -- Potential for Problems	M	H	<ul style="list-style-type: none"> <li>Data validation protocols (electronic analysis)</li> <li>Clear guidance/training on grantee reporting</li> <li>Improve grantee Activity Reports to receive better data</li> </ul>	VPGM Director OPP Director OCE	Ops. & Regs. Com.		
<b>LSC Records Management</b> -- Potential for Problems	L	M	<ul style="list-style-type: none"> <li>Update records management policy, including statement on the handling of confidential information</li> <li>Train staff in new policy</li> <li>Effective FOIA procedures</li> <li>Stay abreast of best practices</li> <li>Maintain effective computer back-ups</li> <li>Maintain effective security on electronic information access</li> <li>(continued on next page)</li> <li>Improve internal access to key records</li> </ul>	CIO VPLA	Ops. & Regs. Com.		



<b>RISK TO LSC RESOURCES –ASSETS</b>							
<b>Risks</b>			<b>Strategies</b>	<b>Who is responsible?</b>		<b>Last report to Board</b>	<b>Next report to Board</b>
	<b>Probability</b>	<b>Severity</b>		<b>Management</b>	<b>Board</b>		
			<ul style="list-style-type: none"> <li>improve public access to records</li> <li>Ensure compliance with legal requirements</li> </ul>				
<b>Preservation of LSC interest in grantee property</b> -- Potential for loss	L	L	<ul style="list-style-type: none"> <li>Maintain up to date Property Acquisition Manual</li> <li>Remind grantees of LSC policy</li> <li>Pursue remedies as necessary</li> </ul>	VPLA	Ops. & Regs. Com.		
<b>Continuation of Operations &amp; Organizational Resilience</b>	L	H	<ul style="list-style-type: none"> <li>Effective COOP plan</li> </ul>	Chief of Staff	Ops. & Regs. Com.		
	L	H	<ul style="list-style-type: none"> <li>Computer network back-up</li> </ul>	CIO			

<b>RISK TO LSC RESOURCES – GRANTEES</b>							
<b>Risks</b>			<b>Strategies</b>	<b>Who is responsible?</b>		<b>Last report to Board</b>	<b>Next report to Board</b>
	<b>Probability</b>	<b>Severity</b>		<b>Management</b>	<b>Board</b>		
<b>Grantee Oversight by LSC &amp; IPAs</b> -- Preventing lapses	M	H	<ul style="list-style-type: none"> <li>• Rigorous Compliance oversight</li> <li>• Maintain comprehensive procedures manuals</li> <li>• Well-defined workplans for program visits</li> <li>• Careful review of grantee reports to LSC</li> <li>• Communications between offices</li> <li>• Internal training</li> <li>• Regular communications with programs</li> <li>• Monitoring media reports</li> </ul>	VPGM	Ops & Regs. Com. Del. Of Legal Serv. Com.		
<b>Interpretations of regulations by LSC Staff</b> -- Preventing inconsistencies	L	H	<ul style="list-style-type: none"> <li>• Joint meetings and trainings</li> <li>• Joint work groups by topic</li> <li>• Feedback from grantees</li> </ul>	VPGM	Ops & Regs. Com.		

RISK TO LSC RESOURCES – GRANTEES							
Risks			Strategies	Who is responsible?		Last report to Board	Next report to Board
	Probability	Severity		Management	Board		
<b>Grantee Operations</b>				VPGM	Del. Of Legal Serv. Com.	1/15 (Performance Criteria – Leadership)	1/15 Grantee Oversight by OPP
-- Major misuse of grant funds	M	H	<ul style="list-style-type: none"> <li>Rigorous selection process for grantees</li> <li>Enforcement of regulations</li> </ul>	Director OPP			
-- Failure of leadership	L	H	<ul style="list-style-type: none"> <li>Grant assurances</li> <li>Grant conditions</li> <li>Advisories</li> </ul>	Director OCE		7/20/14 (board composition and client board members)	1/15 Enforcement Mechanisms (Ops & Regs Cttee)
-- Failure of internal controls	M	H	<ul style="list-style-type: none"> <li>Program letters</li> <li>Compliance/Fiscal visits</li> </ul>			4/7/14 (financial planning & budgeting)	
-- Lack of board oversight	M	H	<ul style="list-style-type: none"> <li>LSC Resource Information</li> <li>Training of grantee staff</li> </ul>			1/24/14 (Board governance – fiscal and financial oversight)	
-- Leadership transitions	H	M	<ul style="list-style-type: none"> <li>Outreach to local boards</li> <li>Local board education</li> </ul>			10/21/13 (Performance Criteria)	
-- Restriction violations	M	H	<ul style="list-style-type: none"> <li>Outreach to Access to Justice community in region</li> </ul>			4/15/2013 Comprehensive legal needs assessments	
-- Poor records management	M	M	<ul style="list-style-type: none"> <li>Review/redefine services</li> </ul>			1/25/2013 Succession planning and leadership development	
-- Poor Quality legal services	L	H	<ul style="list-style-type: none"> <li>Seek interim provider</li> <li>Work with programs to improve compliance and reduce chances that they will violate restrictions or otherwise require the imposition of sanctions</li> </ul>				
-- Need to replace program	L	H					

<b>RISK TO LSC RESOURCES – GRANTEES</b>							
<b>Risks</b>			<b>Strategies</b>	<b>Who is responsible?</b>		<b>Last report to Board</b>	<b>Next report to Board</b>
	<b>Probability</b>	<b>Severity</b>		<b>Management</b>	<b>Board</b>		
			<ul style="list-style-type: none"> <li>• Periodic review of regulations</li> <li>• OLA opinions</li> </ul>	VPLA	Ops & Regs. Com.	10/14	7/15

## 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.

**Office of the Inspector General Referrals  
to the Office of Compliance &  
Enforcement**

**Office of Compliance and Enforcement**

**MEMORANDUM**

**To:** Audit Committee

**From:** Lynn A. Jennings, Vice President for Grants Management  
Lora M. Rath, Director, Office of Compliance and Enforcement

**Re:** Status of Referrals from the OIG Audit Division to LSC Management

**Date:** March 25, 2015

During Calendar Year (CY) 2014, the Office of Inspector General’s (“OIG”) Audit Division made five referrals to LSC Management. Of those, two remained pending at the beginning of CY 2015. On March 13, 2015, an additional referral was received from the OIG.

	Pending at Outset	Referred during Quarter	Closed during Quarter	Remaining Open at End of Quarter
Q 1	2	1	1	2
Q 2	--	--	--	--
Q 3	--	--	--	--
Q 4	--	--	--	--

**Summary of 2015 Activity to Date**

**OIG Audit Referrals Open at the Beginning of the Year and Remaining Open at End of First Quarter: 1**

1. **Legal Services NYC.** On October 16, 2014, the OIG referred \$196,837 in questioned costs for attorneys’ fees received by the program during Fiscal Year 2013, for cases supported in whole or in part with LSC funds, but for which the attorneys’ fees received were not allocated to the LSC funding line.

On October 22, 2014, LSC Management contacted LSNYC to request an accounting of the time charged to, and the funding sources so charged, for each of the 25 cases in question. That information was provided on November 27, 2014. After reviewing the materials provided, on December 15, 2014, LSC asked LSNYC to provide additional documentation. LSC received that information from LSNYC on February 6 and 13, 2015. OCE analyzed the information and provided a recommended course of action to the Vice President for Grants Management on February 24, 2015. The Vice President entered into initial conversations with LSNYC Management during the week of March 2,

2015 and OCE is currently in contact with the program to facilitate resolution of this issue, to include LSNYC's transferring non-LSC funds to the LSC funding line to account for the derivative income not properly allocated and OCE's providing Technical Assistance to ensure LSNYC Management and fiscal staff is aware of LSC fiscal requirements, including how to properly allocate derivative income.

**New Referrals Opened During The First Quarter: 1**

1. **Legal Aid of West Virginia, Inc.** On March 13, 2015, the OIG referred \$9,579 in questioned costs:
  - a. \$3,842 in incorrectly allocated attorneys' fees; and
  - b. \$5,737 in unallowable costs (including membership dues, flower purchases, credit card fees, and late payment fees).

OCE requested and received initial back-up materials from the OIG and will review those documents in order to make a recommendation to the Vice President for Grants Management.

**OIG Audit Referrals Open at the Beginning of the Year and Closed during First Quarter: 1**

1. **Nevada Legal Services, Inc.** On August 18, 2014, the OIG referred \$1,375 in questioned costs:
  - a. \$1,246 in unallowable costs (flower and alcohol purchases, membership fees), and
  - b. \$129 in inadequately supported costs (cell phone charges for staff member).

On October 17, 2014, the NLS ED provided OCE with additional information which NLS felt the OIG had not correctly considered. OCE has entered into informal negotiations with the program to determine the amount, if any, to be recouped and the corrective actions to be taken. By letter dated March 20, 2014, NLS provided a check in the amount of \$1,222, and also provided evidence of policy amendments and trainings to ensure deficiencies noted by the OIG do not occur again in the future. The \$1,222 recouped was for:

- a. \$1,093 in unallowable costs (flower and alcohol purchases, membership fees), and
- b. \$129 in inadequately supported costs (cell phone charges for staff member).

OCE determined that the remaining \$153 referred by the OIG for membership fees to a warehouse retailer to purchase office supplies was an allowable expense, and not subject to recovery.

Total time from date of OIG referral to final resolution was 214 days.



**Reconciliation of OIG Questioned Costs to Amounts Recouped on Closed Referrals**

One referral, Nevada Legal Services, was closed during the first quarter of CY 2015.

	<u>Costs</u>	<u>% of Total</u>
Total Questioned Costs on Closed Referrals	\$ 1,375	100%
Supporting Documentation Subsequently Received or Research Indicated Was Allowable	\$ 153	11%
Questioned Cost Not Pursued Due to Statute of Limitations	\$ 0	- %
Subtotal of Costs for Management to Pursue	\$ 1,222	89%
Amount Recouped	\$ <u>1,222</u>	<u>89%</u>

STATUS OF REFERRALS FROM OIG AUDIT DIVISION TO OCE (Thru March 23, 2015)

	State	Grantee	Date of OIG Onsite/ Review	Date of OIG Report	Date of Referral to OCE	OIG Referral - Issues and Amounts	LSC Action	Amount Disallowed by LSC	Resolution
1	NV	Nevada Legal Services, Inc.	11/11-15/13	8/7/2014	8/18/2014	OIG referred \$1,375 in questioned costs: \$1,246 for unallowable charges and \$129 for inadequately supported costs. (OIG's referral originally indicated an additional \$599 of inadequately supported costs were to be questioned. The number was resolved as being only \$129 via email from the OIG's office dated September 5, 2014.)	OCE has been in contact with the OIG to obtain supporting documentation and clarifying information. OCE has recommended a course of action to the Vice President for Grants management which will include attempting informal negotiation regarding the questioned costs and requiring program submission of sufficient documentation to demonstrate corrective actions taken in regard to its: cash disbursements policies and procedures to ensure that LSC funds are not used for prohibited purposes; its contracting policies and procedures to ensure they address all elements required by LSC's fundamental criteria, including training of staff on those policies/procedures. On October 17, 2014, the NLS ED provided OCE with additional information which NLS felt the OIG had not correctly considered. <b>After reviewing the information, OCE entered into informal negotiations with NLS. By letter dated March 20, 2014, NLS provided a check in the amount of \$1,222, and also provided evidence of policy amendments and trainings to ensure deficiencies noted by the OIG do not occur again in the future. The \$1,222 recouped was for:</b> a. \$1,093 in unallowable costs (flower and alcohol purchases, membership fees), and b. \$129 in inadequately supported costs (cell phone charges for staff member).	\$1,222	LSC recouped \$1,222.
2	NY	Legal Services NYC	1/13-17/14 and 6/2-6/14	10/9/2014	10/16/2014	OIG referred \$196,837 in questioned costs - all stemming from attorneys' fees received during 2013. The OIG examined 6 of the 25 cases in question and determined, based on the % of LSC funding used to support those 6 cases, that \$196,837 should have been allocated to the LSC funding line.	OCE contacted the LSNYC ED, on October 17, 2014, to inquire as to whether any actions had yet been taken in response to the OIG report. The ED informed OCE that LSNYC had begun reviewing case and time records to determine the amount of time actually allocated to LSC for each case - rather than depending on the OIG's sampling to determine what, if any additional funds need to be questioned. By email dated October 22, 2014, OCE requested that OIG provide case information related to the 6 cases the OIG reviewed on site. That documentation was provided on October 23, 2014. By email dated October 22, 2014, OCE contacted the LSNYC ED to formalize its request for information related to the 25 cases for which LSNYC received attorneys' fees in 2013. LSNYC provided the requested information on November 26, 2014. On December 15, 2014, OCE requested that clarifying information be provided. <b>LSNYC submitted clarifying information on February 6 and 13, 2015. After being provided a recommended course of action by OCE, the Vice President for Grants Management initiated conversation with LSNYC during the week of March 2, 2015. OCE is currently in contact with the program to facilitate resolution of this issue, to include LSNYC transferring non-LSC funds to LSC funding line to account for the derivative income not properly allocated and OCE providing Technical Assistance to ensure LSNYC Management and fiscal staff is aware of LSC fiscal requirements, including how to properly allocate derivative income.</b>	\$	
3	LAWV	Legal Aid of West Virginia,	7/14-23/14	1/27/2015	3/13/15 (referral was dated 2/2/15 but was not received until 3/13/15)	OIG referred \$9,579 in questioned costs: \$3,842 in incorrectly allocated attorneys' fees; and \$5,737 in unallowable costs (including membership dues, flower purchases, credit card fees, and late payment fees).	OCE has begun reviewing the OIG's Final Report on Selected Internal Controls, as well as the program's response to the Draft Report, in order to provide a recommended course of action to the Vice President for Grants Management.		

Pending and Recently Closed Issues Referred from Audited Financial Statements

		Grantee Name	Referral Number	Date of Referral	OIG's Finding Description	OIG's Justification for Referral	OCE's Determination	Status of Referral
1		Appalachian Research and Defense Fund	2013-618030-01	9/10/2013	For the second straight year, there was a prior period adjustment required.	OIG noted that, for the second straight year, there was a prior period adjustment required due to improper recording of unearned grant revenue. Referred to OCE for follow-up to ensure corrective action is taken.	OCE conducted an onsite Compliance Review in June 2013. Fiscal and regulatory compliance issues noted during the review have been the subject of ongoing communications with the grantee. LSC has continued to provide this grantee with necessary technical assistance and training as it deals with ongoing financial and leadership issues. These referrals are being kept open in order to ensure that all required corrective actions have been - and continue to be - taken to ensure grantee compliance.	OCE and OPP continue to work with this program. A new Executive Director began work in February 2015. LSC has imposed Special Grant Conditions on the program's 2015 funding which required that the new Executive Director undergo an OCE-provided training webinar within his first two months of employment and that the program submit to a Technical Assistance Review within 6 months of his start date. <b>The new ED participated in an OCE-provided webinar on February 24, 2015. The Technical Assistance Review is scheduled to take place during the week of April 27, 2015.</b>
			2013-618030-02	9/10/2013	The Organization does not have a formal written policy that was effectively communicated to staff.	OIG reported that time keeping requirements were not met because the grantee lacked a formal written policy which was effectively communicated to staff. Grantee management stated that they would implement policies. Referred to OCE for follow-up to ensure corrective action is taken.		
			2013-618030-03	10/3/2013	Time keeping requirements were not met in that the grantee lacked a formal written policy which was effectively communicated to staff.	OIG noted that grantee management stated that they would develop a written time keeping requirements policy in accordance with Legal Services Corporation regulations and ensure that the policy is effectively communicated to staff. Referred to OCE for follow-up to ensure corrective action is taken.		
2	AZ	DNA Peoples Legal Services	2014-703068-01	6/3/2014	IPA noted numerous material audit adjustments were required at year-end. Thus, the unadjusted General Ledger was not materially correct under accounting principles accepted in the United States.	OIG noted that grant allocation information should be accurate and timely so it properly reflects the operations of the organization.	The program sufficiently completed the actions required by its Special Grant Condition. It is anticipated that the new processes will cure the deficiencies noted in the 2013 audit. OCE will keep this referral open until the IPA issues its findings for the 2014 audit.	This information has been noted in OCE's risk assessment chart. OCE is also offering the program New Executive Director Orientation training to assist the program with fiscal oversight. OCE recommended that a targeted Special Grant Condition, related to budgetary controls and processes, be imposed on the program's 2014 grant. Senior Management accepted that recommendation. OCE continues to work with DNA's Director of Finance to ensure that new policies, procedures, and practices are put into place to ensure adequate and timely oversight of the allocation processes. The program sufficiently completed the actions required by its Special Grant Condition.
			2014-703068-02	6/3/2014	OIG noted a segregation of duties concern relating to bank reconciliations where they are being reviewed by the same staff who prepares them without prior review by the ED.	OIG noted that this was a finding in prior years and it poses a risk for fraud.		

Pending and Recently Closed Issues Referred from Audited Financial Statements

		Grantee Name	Referral Number	Date of Referral	OIG's Finding Description	OIG's Justification for Referral	OCE's Determination	Status of Referral
			2014-703068-03	6/3/2014	OIG noted that DNA holds Certificates of Deposit (CD) but the Board of Directors did not permit this. Further, DNA's depreciation schedule did not track property purchased with LSC funds.	OIG noted that the CD issue was noted in prior years, and that the depreciation schedule should track property purchased with LSC funds.		This information has been noted in OCE's risk assessment chart. OCE has contacted the program to determine whether DNA has taken steps to revise its Board of Directors stance on the use of CDs or whether they did not affirmatively approve the purchase. Additionally, OCE will advise the program as to the LSC Accounting Guide requirements for accounting for personal property purchased with LSC funds.
3	CA	Inland Counties Legal Services, Inc.	2012-805230-01	8/13/2012	Internal Controls over cash accounts were not adequate.	OIG noted that grantee management accepted the finding and stated that a new controller had been hired. Referred to OCE for follow-up to ensure that controls over cash accounts have been implemented.	OCE reviewed the documents submitted by ICLS and found the actions taken appear to be sufficient. OCE conducted an onsite review in January 2015, at which time all of the IPA's concerns were reviewed. This referral is being kept open until OCE can ensure that the corrective actions taken were sufficient.	OCE reviewed the documents submitted by ICLS and found the actions taken appear to be sufficient. OCE conducted an onsite review in January 2015, at which time all of the IPA's concerns were reviewed. <b>The Draft Report from that visit is pending release and will be used to determine what, if any next steps need to be taken to resolve the pending referrals.</b>
			2012-805230-02	8/13/2012	Policies and procedures for use of the accounting software and preparing transactions and reconciliations was not adequately documented. The new controller did not expend a significant effort to understand the system.	OIG noted that grantee management stated that they would strive to have that accounting manual updated in 2012 by the new controller. Referred to OCE for follow-up needed to determine if accounting manual was updated.	OCE reached out to the program to request the new policies, procedures, Manual etc. OCE has reviewed documents submitted by ICLS and determined the new procedures to be appropriate and adequately documented. This referral is being kept open until OCE can ensure that the corrective actions taken were sufficient.	
			2012-805230-03	8/13/2012	Grantee did not obtain all necessary documentation from subrecipients to provide reasonable assurance that federal awards were properly administered and to ensure that performance goals were achieved.	OIG noted that grantee stated that full charge bookkeeper had been hired to review monthly subgrantee submissions & that subgrantees have been notified of their deficiencies. Referred to OCE for follow-up to ensure on-going implementation.	This issue was addressed via follow-up correspondence with grantee in which ICLS submitted documentation regarding improved/increased oversight of subgrantee activities. OCE considers this referral closed.	
			2013-805230-01	6/26/2013	Policies & procedures for use of the accounting software and preparation of monthly, quarterly and annual transactions & reconciliations were not adequately documented. There were also account reconciliations that were not updated or thoroughly analyzed.	OIG noted that grantee management stated that continual turnover of key accounting personnel resulted in the condition. Grantee had stated that they would have the accounting manual updated by 2012. Referred to OCE for follow-up to ensure corrective action is taken as this was a prior year finding.	ICLS submitted a revised/updated accounting manual containing the requested policies and procedures. OCE considers this referral closed.	

Pending and Recently Closed Issues Referred from Audited Financial Statements

		Grantee Name	Referral Number	Date of Referral	OIG's Finding Description	OIG's Justification for Referral	OCE's Determination	Status of Referral
			2013-805230-02	6/27/2013	The grantee did not maintain effective oversight over its retirement plan. The grantee did not always obtain signed payroll deduction forms authorizing payroll deductions to repay retirement plan loans and the form was outdated.	OIG noted that grantee management stated that they will develop a written protocol/checklist of actions necessary when a plan administrator leaves the program to be included in the accounting manual being updated. Referred to OCE for follow-up to ensure corrective action is taken.	OCE reviewed the documents submitted by ICLS and found the corrective actions taken and protocols established appear to be sufficient.	
			2014-805230-01	6/3/2014	IPA noted grantee did not have a system in place to verify whether vendors were suspended or disbarred.	According to the IPA, the grantee stated that written protocols would be put in place to ensure that when considering bids for procurement in excess of \$25,000, a debarment and suspension check would be conducted. Referred to OCE for follow-up to ensure corrective action is taken.	OCE reviewed the sufficiency of the corrective actions take by the program during the January 2015 onsite review.	
			2014-805230-02	6/3/2014	IPA noted that 5 clients who had expired immigration cards received legal services.	The IPA noted that the program is reviewing and revising their policies to ensure compliance with 45 CFR Part 1626. The OIG referred the issue to OCE to ensure necessary actions are undertaken.	The program's adherence to 45 CFR Part 1626 was assessed as part of the OCE onsite review in January 2015.	
4	MO	Legal Aid of Western Missouri	2013-526010-01	6/27/2013	Initial testing and follow-up testing showed that the vast majority of the organization's staff members comply with LSC timekeeping requirements. There are, however, a small number of staff members who are not in compliance.	OIG reported that grantee mgmt. fully understands the nature of the requirement and will take necessary steps to ensure that all staff is in compliance. OIG further noted that grantee mgmt. states that upon being informed by the IPA of the issue; they took action to address the issue. Referred to OCE for follow-up to ensure corrective action taken.	OCE considers this referral to have been resolved. Once a Final Report is issued, it will be provided to the OIG as evidence of the resolution.	An OCE Compliance Review was conducted in November 2013. This issue was reviewed and found to no longer be a concern.
5	AL	Legal Services Alabama, Inc.	2013-601037-01	10/3/2013	One difference was noted for payroll time entry used for cost allocation purposes.	OIG referred this as a repeat finding which requires OCE follow-up.	An onsite OCE site visit was conducted in January 2015.	OCE has noted this deficiency in its risk assessment chart. OCE conducted an onsite visit in January 2015. At that time OCE conducted testing to determine whether this a systemic issue or has been solved. <b>The Draft Report from that visit is pending release and will be used to determine what, if any next steps need to be taken.</b>

Pending and Recently Closed Issues Referred from Audited Financial Statements

		Grantee Name	Referral Number	Date of Referral	OIG's Finding Description	OIG's Justification for Referral	OCE's Determination	Status of Referral
6	VA	Central Virginia Legal Services, Inc.	2014-447030-01	2/25/2014	Recipient must state who prepares monthly bank reconciliations, who reviews the reconciliations, and who approves & certifies the reconciliations. Due dates for each steps to be established. Follow-up by LSC management needed to ensure implementation.	OIG noted based upon inquires with management that bank reconciliations and reviews were not being performed on a timely basis. OIG also noted that CVLAS management was not tracing bank reconciliation totals back to the trial balance and General Ledger.	By letter dated March 7, 2014, OCE requested specific information regarding the IPA's findings. The program responded on March 21, 2014. OCE reviewed the information received and found it sufficient to close #2014-447030-03 but not ## 2014-447030-01, 2014-447030-02 and 2014-447030-05. OCE continues to work with the program to close these referrals. OCE	The recipient's LSC funding for 2015 is subject to several Special Grant Conditions designed to address these issues. LSC anticipates that all issues will be resolved within the next 6 to 8 months (by the end of FY 2015).
			2014-447030-02	2/25/2014	CVLAS indicated that a payroll module would be added to the case management system but did not provide a timeframe. This is a repeat finding from the prior year.	Based upon inquires with management and review of time records OIG noted instances were attorneys had not contemporaneously inputted a portion of their time into CVLAS' time keeping system by case matter and supporting activities.	By letter dated March 7, 2014, OCE requested specific information regarding the IPA's findings. The program responded on March 21, 2014. OCE reviewed the information received and found it sufficient to close #2014-447030-03 but not ## 2014-447030-01, 2014-447030-02 and 2014-447030-05. OCE continues to work with the program to close these referrals. OCE conducted a Technical Assistance Review of this program on August 18-20, 2014 .	
			2014-447030-03 2015-447030-01	2/25/2014 2/15/2015	OIG indicated that LSC Management may want to follow-up on this requirement as 12 of 25 selections made by the IPA did not contain notice to the funding source. The CA mentions sending letters will be the sole responsibility of the ED, does not mention when the action will be put into place.	OIG noted instances where CVLAS had not provided to the source of funds written notification of LSC prohibitions and conditions.	By letter dated March 7, 2014, OCE requested specific information regarding the IPA's findings. The program responded on March 21, 2014. OCE reviewed the information received and found it sufficient to close #2014-447030-03 but not ## 2014-447030-01, 2014-447030-02 and 2014-447030-05. OCE continues to work with the program to close these referrals. OCE conducted a Technical Assistance Review of this program on August 18-20, 2014. <b>As this issue continues to be a concern, OCE will continue to provide technical assistance and support.</b>	

Pending and Recently Closed Issues Referred from Audited Financial Statements

	Grantee Name	Referral Number	Date of Referral	OIG's Finding Description	OIG's Justification for Referral	OCE's Determination	Status of Referral
		2014-447030-04 2015-447030-03	2/25/2014 3/20/2015	Incorrect cost and time allocations can lead to possibly incorrect revenues and expenses for grants/contracts. Program management should make decisions based on revenues/expenses. The CA should be followed up on.	Cost allocations are not being performed on a timely basis. Also timesheet are not being properly monitored by management and adjusted when funding sources have been eliminated or depleted. Also the funds in the accounting system need to be utilized.	This issue was addressed via Special Grant Conditions. OCE also conducted a Technical Assistance Review of this program in August 2014 and provided additional training and support. <b>This deficiency was noted during OCE August 18-20, 2014 review and is the subject of 2015 Special Grant Conditions. As this issue continues to be a concern, OCE will continue to provide technical assistance and support.</b>	
		2014-447030-05	2/25/2014	Based on review of the CA OIG feels LSC Management should ensure that the CA s being followed and follow-up on whether the Board approved the drafted policy mentioned.	OIG noted during inquires with management and review of credit card files instances were credit card receipts were not being properly maintained.	By letter dated March 7, 2014, OCE requested specific information regarding the IPA's findings. The program responded on March 21, 2014. OCE reviewed the information received and found it sufficient to close #2014-447030-03 but not ## 2014-447030-01, 2014-447030-02 and 2014-447030-05. OCE continues to work with the program to close these referrals. OCE conducted a Technical Assistance Review of this program on August 18-20, 2014 and will continue to provide technical assistance and oversight.	
		2015-447030-04	3/20/2015	The OIG noted that the IPA reviewed time sheets on which no supervisor signature was noted.	The absence of supervisory approval allows for the possibility of fraudulent or misallocated time.	This deficiency was noted during OCE August 18-20, 2014 review and is the subject of 2015 Special Grant Conditions.	
		2015-447030-02	2/14/2015	The OIG noted that former employees had not been removed as authorized signatories on CVLAS bank accounts.	There is the possibility of fraud by former employees.	This deficiency was noted during OCE August 18-20, 2014 review and is the subject of 2015 Special Grant Conditions.	

Pending and Recently Closed Issues Referred from Audited Financial Statements

		Grantee Name	Referral Number	Date of Referral	OIG's Finding Description	OIG's Justification for Referral	OCE's Determination	Status of Referral
7	ME	Pine Tree Legal Assistance, Inc.	2014-120000-02	6/3/2014	OIG noted the IPA found a significant amount of equipment was fully depreciated. The IPA recommended that program management review the inventory annually and that disposed of assets should be removed from the General Ledger.	IPA recommended the asset list be evaluated annually and compared to a physical inventory count.	Based on review of the program's submissions in conjunction with the fiscal component of the competitive grant application, OCE believes this issue had been resolved. However, OCE contacted the program to ensure that the corrective actions had taken place.	CLOSED: By letter dated March 19, 2015, PTLA provided evidence that it had reviewed its fixed asset listing, removed fully depreciated items and compared the results with a physical inventory count. It also noted that going forward, these documents would be updated and reconciled annually. OCE has advised the OIG that it considers PTLA's actions to be sufficient. OCE has noted this issue in its risk assessment chart and will include assessment of this issue as part of its next onsite review.
8	IL	LAF (Legal Assistance Foundation)	2014-514020-01	6/3/2014	The IPA noted it found that 45 CFR Part 1636 written statements of fact were not obtained for each represented plaintiff in three (3) cases.	OIG noted that since this is a compliance requirement, OCE should follow-up to ensure compliance with 45 CFR Part 1636.	During the course of a recent onsite review, OCE found this issue to have been resolved. Referral being kept open until Final Report is issued by OCE.	OCE conducted an onsite review of this program in April, 2014. The visit found 2 (out of 756 case files reviewed) files that did not contain the required documentation. This was noted and explained to LAF both orally and in the draft report. LAF reported taking the required corrective action to avoid this deficiency in the future. The Final Report is in the process of being issued. Once the Final Report is issued, OCE will provide a copy of the Report to the OIG.
9	SD	East River Legal Services	2014-542026-01	6/3/2014	OIG noted the organization does not have an internal control system to support the preparation of audited financial statements. The IPA was requested to draft financial statements and notes accompanying financial statements.	OIG noted this was a finding in prior years.	OCE considers this referral to have been resolved. Once a Final Report is issued, it will be provided to the OIG as evidence of the resolution.	OCE conducted an onsite review of grantee in April 2014. The Final Report, which found no deficiencies in internal controls given the small size of the fiscal staff, is in the process of being issued. Once issued, OCE will provide a copy of the Report to the OIG.
10	RI	Rhode Island Legal Services, Inc.	2014-140000-01	12/4/2014	The OIG noted that the IPA reported that a physical inventory of equipment purchased with Federal grant funds had not been performed in a two year period.	Physical inventory of equipment purchased with federal grants has not been conducted over the two year period.	OCE contacted the program on February 23, 2015 and requested that information related to corrective actions taken be submitted on or before March 20, 2015. The program requested additional time - until April 30 - to provide the necessary information.	OCE is waiting for submission of documentation related to corrective actions taken by the recipient.
11	MN	Northeastern Minnesota	2014-542026-01	7/3/2014	The OIG noted that the IPA determined that the recipient did not have an internal control system designed to provide for the preparation of the financial statements being audited.	The OIG noted that this was a prior year finding, although IPA stated it was not a federal award finding.	OCE recognizes that many recipients have small fiscal staff. OCE will provide technical assistance to this program, and those similarly situated, to ensure adequate internal controls are in place.	CLOSED: OCE recognizes that many recipients have small fiscal staff. OCE will continue to provide technical assistance to this program, and those similarly situated, to ensure adequate internal controls are in place.



Pending and Recently Closed Issues Referred from Audited Financial Statements

		Grantee Name	Referral Number	Date of Referral	OIG's Finding Description	OIG's Justification for Referral	OCE's Determination	Status of Referral
12	GA	Georgia Legal Services Program	2014-611020-01	8/24/2014	The OIG noted that the IPA found a the lease which provided for the purchase of the equipment at the end of the lease term for a bargain purchase price. Because of the purchase options, according to FASB ASC 840, these assets meet the criteria for capital lease treatment.	IPA recommended that LSC ensure that capital leases are properly recorded in the future.	By letter dated March 18, 2015, GLSP provided narrative and supporting documents to demonstrating that corrective actions to cure the misinterpretation have been taken and new procedures put into place.	CLOSED: OCE has advised the OIG that it considers GLSP's actions to be sufficient. OCE has noted this issue in its risk assessment chart and will include assessment of this issue as part of its next onsite review.
13	AZ	Community Legal Services, Inc.	2014-703030-01	10/23/2014	The OIG noted that the IPA found that the program did not properly record revenue & assets.	Recipient did not properly record contribution revenue and temporarily restricted net assets in the amount of \$73 840		OCE's initial review of the Audited Financial Statements did not find a similar deficiency. The Audited Financial Statements are currently pending second review.
14	OK	Oklahoma Indian Legal Services	2014-737018-01	12/4/2014	The OIG noted that the IPA found that OILS had claimed certain non-LSC expenditures totaling \$13,380 as LSC program expenditures on its 2013 GAR D-1 Actual Expense Report.	Follow-up required to ensure that recipient is adhering to LSC's regs on use of LSC funds.	Review of OILS Audited Financial Statement for 2014 indicated that the program had submitted a corrective form 2013 GAR D-1 Actual Expense Report on April 22, 2014.	CLOSED: OCE determined that OILS has taken sufficient action to address the concern noted by the OIG.
15	SD	Dakota Plains Legal Services, Inc.	2014-742018-01	12/4/2014	The OIG noted that, during course of engagement, the IPA proposed material audit adjustments - some of which were the result of the Administrator resigning in January 2014 and not completing the year end close-out process.	Although the program reports hiring a new Administrator, more specific corrective action is required to address the internal control weaknesses.	OCE conducted an onsite Compliance Review in September 2014. Fiscal and regulatory compliance issues noted during the review have been the subject of ongoing communications with the grantee and resulted in several special grant conditions being imposed on DPLS' 2015 funding. LSC has continued to provide this grantee with necessary technical assistance to resolve the noted concerns.	
			2014-742018-02	12/3/2014	The December bank account reconciliations were not prepared as of audit fieldwork due to the vacant Administrator position in January 2014.	The IPA noted that 2 checks totaling \$279.99 were duplicated w/in GL. A check for \$9,418.18 written before year end was not included as an outstanding item. A deposit for \$26,307.23 prepared before year end was not deposited until Feb. 2014.		
			2014-742018-03	12/3/2014	The organization carried outstanding travel advance amounts from transactions which occurred throughout 2013. Some accounts showed amounts due the organization; some showed amounts due back to employees.	Outstanding travel advance amounts due to Program. Long outstanding travel amounts potentially put the Program at risk of collecting such.		

Pending and Recently Closed Issues Referred from Audited Financial Statements

		Grantee Name	Referral Number	Date of Referral	OIG's Finding Description	OIG's Justification for Referral	OCE's Determination	Status of Referral
			2014-742018-04	12/4/2014	The IPA noted three disbursements to two individuals for contract services. Based on supporting documentation including approved pay rates, timesheets, and purpose for the service, the individuals should have been paid as employees.	Processing payments to individuals as contract services who meet the employee criteria is not in accordance with Dept. of Labor regulations.		
			2014-742018-05	12/4/2014	The IPA noted several instances of lack of proper supporting documentation or approval for payments.	Disbursements without proper payment voucher documentation, receipts and approvals.		
			2014-742018-06	12/3/2014	The IPA noted employees were not paid the proper amounts based on supporting time cards and approved pay rates. IPA also noted instances where payroll was not charged to the proper program. Annual leave was paid without adequate approval or a formal policy.	No written policy on how overtime is calculated. Payroll not processed as calculated by the approved pay rate. There is risk that the annual leave payout may be different than calculated on annual leave listing. Allocation calculated based on wrong am		

# **LSC 403(b) Thrift Plan**



OFFICE OF HUMAN RESOURCES

## MEMORANDUM

**TO:** Audit Committee  
**FROM:** Traci L. Higgins  
**DATE:** March 23, 2015  
**SUBJECT:** LSC 403(b) Thrift Plan – 1st Quarter 2015 Update

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### 403 (b) Plan Performance

Our funds continue to perform well in early 2015, with all twenty-five registering positive returns through February 28, 2015 – a marked improvement over the close of 2014 when seven funds ended the year with negative returns. BMO Small-Cap Growth, one of last quarter's underperforming funds, significantly improved its performance (6.38%, up from -0.43%), and Prudential Jennison Natural Resources, last quarter's worst performer (-19.69%), is now in positive territory, albeit very modest (.80%).

A report detailing fund performance through February 28, 2015 is attached.

### 403 (b) Plan Distributions

A total of \$218,443 in distributions was made during the period January 1, 2015 – March 23, 2015. Approximately \$67,500 of the distributions was paid to former employees. \$97,300 of the remaining distribution was for seven in-service withdrawals made by five current employees, and an employee hardship withdrawal accounted for an additional distribution of \$53,500.

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

Ranked by: descending Morningstar Category

Name	Morningstar Category	Ticker	Prospectus Net Expense Ratio	Tot Ret 3 Mo (mo-end)	Tot Ret YTD (mo-end)	Tot Ret 12 Mo (mo-end)	Tot Ret 3 Yr Annlzd (mo-end)	Tot Ret 5 Yr Annlzd (mo-end)	Tot Ret 10 Yr Annlzd (mo-end)	Tot Ret 15 Yr Annlzd (mo-end)
1. American Funds Capital World Gr&Inc R4	World Stock	RWIEX	0.790	1.16	4.39	6.54	13.57	11.20	7.74	8.08
2. American Century One Choice 2050 Inv	Target Date 2046-2050	ARFVX	0.950	2.81	3.13	10.20	12.94	12.64	—	—
3. American Century One Choice 2045 Inv	Target Date 2041-2045	AROIX	0.940	2.79	3.17	10.00	12.67	12.45	7.35	—
4. American Century One Choice 2040 Inv	Target Date 2036-2040	ARDVX	0.900	2.61	2.98	9.47	12.00	12.00	—	—
5. American Century One Choice 2035 Inv	Target Date 2031-2035	ARYIX	0.870	2.44	2.79	8.75	11.16	11.31	6.98	—
6. American Century One Choice 2030 Inv	Target Date 2026-2030	ARCVX	0.840	2.23	2.52	8.11	10.27	10.58	—	—
7. American Century One Choice 2025 Inv	Target Date 2021-2025	ARWIX	0.820	1.97	2.23	7.48	9.42	9.95	6.54	—
8. American Century One Choice 2020 Inv	Target Date 2016-2020	ARBVX	0.790	1.66	1.90	6.91	8.70	9.36	—	—
9. American Century One Choice 2015 Inv	Target Date 2011-2015	ARFIX	0.760	1.52	1.62	6.40	8.09	8.80	6.08	—
10. BMO Small-Cap Growth Y	Small Growth	MRSCX	1.410	6.20	6.38	-0.37	14.47	15.96	10.71	5.99
11. Columbia Small Cap Index A	Small Blend	NMSAX	0.500	5.12	2.24	7.19	17.28	17.12	8.81	8.88
12. American Century One Choice In Ret Inv	Retirement Income	ARTOX	0.760	1.51	1.62	6.32	7.91	8.53	5.81	—
13. Nuveen Real Estate Securities A	Real Estate	FREAX	1.250	4.45	2.69	22.91	15.07	17.44	10.56	14.17
14. Prudential Jennison Natural Resources Z	Natural Resources	PNRZX	0.860	-2.24	0.80	-22.12	-8.29	-1.21	5.97	11.35
15. Goldman Sachs Mid Cap Value Instl	Mid-Cap Value	GSMCX	0.740	2.60	1.80	12.13	18.31	16.09	9.17	13.05
16. Lord Abbett Value Opportunities A	Mid-Cap Blend	LVOAX	1.170	4.28	3.22	7.96	15.90	14.44	—	—
17. Columbia Mid Cap Index A	Mid-Cap Blend	NTIAX	0.460	4.67	3.86	10.58	16.70	16.49	9.64	—
18. TIAA-CREF Large-Cap Value Idx Retire	Large Value	TRCVX	0.310	1.23	0.61	13.11	17.71	15.12	6.88	—
19. T. Rowe Price Equity Income Adv	Large Value	PAFDX	0.940	1.58	1.01	8.76	14.78	13.35	6.65	7.95
20. Alger Capital Appreciation Instl I	Large Growth	ALARX	1.160	4.32	4.99	15.19	18.71	16.64	12.50	3.35
21. TIAA-CREF Large-Cap Gr Idx Retire	Large Growth	TRIRX	0.310	3.84	4.95	15.90	17.67	16.84	8.91	—
22. TIAA-CREF Growth & Income Retire	Large Growth	TRGIX	0.670	2.64	3.68	12.32	17.65	16.06	9.66	5.51
23. State Street Equity 500 Index Adm	Large Blend	STFAX	0.210	2.23	2.51	15.20	17.68	15.89	7.78	—
24. PIMCO Total Return Admin	Intermediate-Term Bond	PTRAX	0.710	1.35	1.86	4.46	3.68	4.80	5.93	6.62
25. TIAA-CREF Bond Index Retirement	Intermediate-Term Bond	TBIRX	0.370	1.12	1.06	4.70	2.32	3.86	—	—
26. American Century Infl Adj Bond A	Inflation-Protected Bond	AIAVX	0.720	0.46	1.81	1.91	-0.45	3.57	3.95	5.72
27. Prudential High-Yield Z	High Yield Bond	PHYZX	0.570	1.26	2.70	2.86	7.19	9.04	7.67	6.85
28. American Funds Europacific Growth R4	Foreign Large Growth	REREX	0.840	1.47	5.69	1.44	9.48	8.12	7.01	4.56
29. Oppenheimer Developing Markets Y	Diversified Emerging Mkts	ODVYX	1.070	-5.94	0.88	-0.15	3.27	6.79	10.86	11.22

Ranked by: descending Morningstar Category

Name	% Rank Cat 3 Mo (mo-end)	% Rank Cat YTD (mo-end)	% Rank Cat 12 Mo (mo-end)	% Rank Cat 3 Yr (mo-end)	% Rank Cat 5 Yr (mo-end)	% Rank Cat 10 Yr (mo-end)	% Rank Cat 15 Yr (mo-end)	Annual Return 2014	Annual Return 2013	Annual Return 2012	Annual Return 2011	Annual Return 2010	Annual Return 2009
1. American Funds Capital World Gr&Inc R4	74	31	40	24	50	27	9	3.97	24.86	19.12	-7.55	7.71	32.29
2. American Century One Choice 2050 Inv	16	97	7	25	12	—	—	8.60	21.58	15.39	-0.96	15.70	26.66
3. American Century One Choice 2045 Inv	15	92	8	31	21	9	—	8.40	21.08	15.00	-0.78	15.50	26.36
4. American Century One Choice 2040 Inv	25	93	12	40	23	—	—	8.03	19.69	14.50	-0.27	14.99	25.95
5. American Century One Choice 2035 Inv	26	95	16	51	41	10	—	7.56	17.92	13.62	0.37	14.28	24.31
6. American Century One Choice 2030 Inv	35	93	18	52	39	—	—	7.22	15.86	12.79	1.04	13.39	22.88
7. American Century One Choice 2025 Inv	47	92	21	58	48	10	—	6.87	14.04	12.14	1.77	12.57	21.24
8. American Century One Choice 2020 Inv	58	92	20	36	32	—	—	6.61	12.58	11.47	2.50	11.70	20.11
9. American Century One Choice 2015 Inv	47	86	23	31	29	12	—	6.27	11.53	10.59	3.16	10.84	18.26
10. BMO Small-Cap Growth Y	46	7	82	69	61	6	39	-0.43	42.25	12.06	-3.82	35.59	46.81
11. Columbia Small Cap Index A	34	54	34	27	18	25	49	5.25	40.60	15.96	0.58	25.71	25.19
12. American Century One Choice In Ret Inv	35	82	5	1	1	2	—	6.20	11.11	10.13	3.58	10.07	16.42
13. Nuveen Real Estate Securities A	70	65	42	24	26	7	3	30.94	1.04	18.07	7.69	30.24	30.18
14. Prudential Jennison Natural Resources Z	85	91	88	77	82	23	6	-19.69	10.08	-2.43	-18.54	28.14	73.74
15. Goldman Sachs Mid Cap Value Instl	75	79	26	30	35	28	3	13.71	32.97	18.54	-6.26	24.85	33.19
16. Lord Abbett Value Opportunities A	38	56	67	61	71	—	—	9.11	36.07	9.73	-4.18	24.50	33.82
17. Columbia Mid Cap Index A	24	32	40	50	36	18	—	9.22	32.92	17.31	-2.14	26.05	36.79
18. TIAA-CREF Large-Cap Value Idx Retire	63	86	25	20	21	47	—	13.10	32.03	17.09	0.05	15.20	19.41
19. T. Rowe Price Equity Income Adv	47	74	88	75	62	52	34	7.18	29.44	16.92	-0.94	14.87	25.40
20. Alger Capital Appreciation Instl I	30	33	21	17	26	1	51	13.30	34.81	18.11	-1.03	13.48	49.12
21. TIAA-CREF Large-Cap Gr Idx Retire	42	34	16	35	22	35	—	12.73	33.03	14.90	2.31	16.29	36.92
22. TIAA-CREF Growth & Income Retire	77	70	47	36	39	19	17	10.92	34.01	16.17	2.79	12.91	26.52
23. State Street Equity 500 Index Adm	50	54	23	32	24	31	—	13.39	31.97	15.84	1.79	14.81	26.25
24. PIMCO Total Return Admin	22	4	54	32	43	6	6	4.43	-2.17	10.08	3.91	8.56	13.55
25. TIAA-CREF Bond Index Retirement	50	72	41	81	80	—	—	5.71	-2.58	3.75	7.37	6.16	—
26. American Century Infl Adj Bond A	50	46	52	69	55	43	60	2.37	-9.31	6.44	12.64	5.24	10.33
27. Prudential High-Yield Z	44	50	22	26	17	7	28	2.84	7.23	14.16	5.07	14.72	48.35
28. American Funds Europacific Growth R4	78	65	47	41	53	17	15	-2.66	20.17	19.22	-13.61	9.39	39.13
29. Oppenheimer Developing Markets Y	92	89	75	18	8	1	1	-4.55	8.68	21.29	-17.85	27.39	82.10

Ranked by: descending Morningstar Category

Name	Annual Return 2008	Sharpe Ratio 3 Yr	Sharpe Ratio 3 Yr (% Rank Category)	Alpha 3 Yr	Alpha 3 Yr (% Rank Category)	Beta 3 Yr	Beta 3 Yr (% Rank Category)	R-Squared 3 Yr	Standard Deviation 3 Yr	Upside Capture Ratio 5 Yr	Upside Capture Ratio 3 Yr (% Rank Category)	Downside Capture Ratio 5 Yr	Downside Capture Ratio 3 Yr (% Rank Category)	% US Stocks Long
1. American Funds Capital World Gr&Inc R4	-38.41	1.34	18	7.94	25	0.75	45	90.68	9.83	97.17	35	73.60	31	40.88
2. American Century One Choice 2050 Inv	—	1.53	9	1.74	6	1.29	19	95.30	8.18	135.48	67	135.23	7	64.97
3. American Century One Choice 2045 Inv	-33.64	1.54	8	1.75	7	1.25	11	95.80	7.95	131.98	76	130.12	5	63.30
4. American Century One Choice 2040 Inv	—	1.56	9	1.76	7	1.18	17	96.20	7.45	126.19	76	123.15	3	58.23
5. American Century One Choice 2035 Inv	-30.58	1.57	7	1.70	7	1.09	11	96.50	6.88	117.30	81	112.53	2	53.31
6. American Century One Choice 2030 Inv	—	1.57	8	1.56	10	1.00	18	96.96	6.33	108.51	76	102.58	4	49.34
7. American Century One Choice 2025 Inv	-25.02	1.58	10	1.43	14	0.92	17	97.43	5.80	100.78	71	93.66	4	45.32
8. American Century One Choice 2020 Inv	—	1.59	13	1.39	14	0.84	34	97.37	5.32	93.45	60	85.04	15	42.95
9. American Century One Choice 2015 Inv	-20.10	1.61	13	1.39	15	0.77	35	96.58	4.89	86.41	55	76.78	21	39.55
10. BMO Small-Cap Growth Y	-42.50	0.94	75	-7.51	85	1.31	91	62.55	15.67	120.77	18	146.84	92	88.13
11. Columbia Small Cap Index A	-31.00	1.31	24	-2.72	20	1.14	44	71.96	12.81	116.00	26	128.31	24	96.52
12. American Century One Choice In Ret Inv	-16.57	1.63	13	1.45	11	0.75	97	96.67	4.71	82.36	2	71.44	82	39.61
13. Nuveen Real Estate Securities A	-34.96	1.14	43	9.72	26	0.45	39	13.02	13.05	98.90	35	58.56	26	98.38
14. Prudential Jennison Natural Resources Z	-52.73	-0.36	71	-21.59	77	1.28	85	50.29	18.91	80.15	72	143.08	84	68.72
15. Goldman Sachs Mid Cap Value Instl	-36.47	1.77	21	0.88	19	0.97	27	87.74	9.79	106.00	44	113.88	25	96.37
16. Lord Abbett Value Opportunities A	-27.77	1.29	69	-4.04	80	1.15	76	81.75	12.04	105.47	44	124.56	74	98.60
17. Columbia Mid Cap Index A	-36.26	1.45	39	-1.63	32	1.04	39	79.64	11.05	110.04	53	119.84	37	96.62
18. TIAA-CREF Large-Cap Value Idx Retire	-37.01	1.71	27	-0.36	20	1.01	53	94.52	9.85	99.97	27	107.63	35	98.80
19. T. Rowe Price Equity Income Adv	-35.88	1.53	50	-1.91	56	0.95	40	94.01	9.28	95.07	74	109.74	40	87.57
20. Alger Capital Appreciation Instl I	-43.89	1.72	20	0.43	18	1.02	45	87.42	10.31	104.25	26	106.05	20	86.05
21. TIAA-CREF Large-Cap Gr Idx Retire	-38.67	1.71	20	-0.16	28	0.99	39	92.73	9.81	100.90	34	97.32	41	98.10
22. TIAA-CREF Growth & Income Retire	-35.12	1.63	30	-1.22	46	1.06	58	94.90	10.32	100.97	14	103.00	70	91.37
23. State Street Equity 500 Index Adm	-36.89	1.77	18	-0.24	19	1.00	51	99.99	9.48	99.28	30	100.55	24	93.19
24. PIMCO Total Return Admin	4.55	0.98	51	0.44	45	1.18	93	87.53	3.70	113.73	7	117.63	88	0.00
25. TIAA-CREF Bond Index Retirement	—	0.76	70	-0.47	74	1.02	68	99.74	2.99	96.45	68	108.96	69	0.00
26. American Century Infl Adj Bond A	-1.38	-0.07	62	-5.04	70	1.73	73	85.43	5.49	128.59	53	218.26	55	0.00
27. Prudential High-Yield Z	-22.14	1.63	27	5.49	30	0.55	66	14.27	4.30	131.35	22	-19.52	54	0.09
28. American Funds Europacific Growth R4	-40.56	0.85	30	3.45	31	0.89	39	94.09	11.40	97.62	41	89.18	23	0.00
29. Oppenheimer Developing Markets Y	-47.84	0.30	27	-2.91	22	1.00	60	82.48	13.67	92.76	7	89.42	36	0.00

Ranked by: descending Morningstar Category

Name	% Non-US Stocks Long	% Bonds Long	% Cash Long	% Other/ Not Classified Long	Total Number of Holdings	Manager Tenure
1. American Funds Capital World Gr&Inc R4	51.53	0.93	5.47	1.19	463	22.00
2. American Century One Choice 2050 Inv	16.89	16.89	2.26	0.81	3900	6.83
3. American Century One Choice 2045 Inv	16.34	19.00	2.39	0.79	3900	8.25
4. American Century One Choice 2040 Inv	14.69	22.95	5.09	0.75	4097	6.83
5. American Century One Choice 2035 Inv	13.34	26.66	7.77	0.71	4177	8.25
6. American Century One Choice 2030 Inv	11.61	32.31	8.17	0.77	4268	6.83
7. American Century One Choice 2025 Inv	9.65	38.16	8.61	0.82	4268	8.25
8. American Century One Choice 2020 Inv	7.37	40.55	11.22	0.78	4268	6.83
9. American Century One Choice 2015 Inv	5.66	43.27	13.93	0.77	4184	8.25
10. BMO Small-Cap Growth Y	8.85	0.00	3.79	0.00	86	10.25
11. Columbia Small Cap Index A	0.43	0.00	3.05	0.00	761	3.58
12. American Century One Choice In Ret Inv	5.63	43.27	13.90	0.77	4184	8.25
13. Nuveen Real Estate Securities A	0.32	0.00	2.36	0.32	163	15.42
14. Prudential Jennison Natural Resources Z	24.93	0.00	4.96	1.39	114	8.67
15. Goldman Sachs Mid Cap Value Instl	0.74	0.00	2.91	0.01	191	13.25
16. Lord Abbett Value Opportunities A	0.77	0.00	0.62	0.00	103	9.25
17. Columbia Mid Cap Index A	0.08	0.00	3.30	0.00	561	3.58
18. TIAA-CREF Large-Cap Value Idx Retire	0.66	0.00	0.46	0.07	707	9.58
19. T. Rowe Price Equity Income Adv	4.30	0.55	6.76	0.81	514	29.42
20. Alger Capital Appreciation Instl I	9.28	0.00	4.21	0.45	152	10.50
21. TIAA-CREF Large-Cap Gr Idx Retire	1.28	0.00	0.53	0.10	689	9.58
22. TIAA-CREF Growth & Income Retire	7.77	0.00	0.56	0.32	248	10.00
23. State Street Equity 500 Index Adm	3.99	0.00	2.98	0.02	509	12.25
24. PIMCO Total Return Admin	0.00	161.47	75.81	10.25	16659	0.50
25. TIAA-CREF Bond Index Retirement	0.00	97.17	2.80	0.03	5256	5.25
26. American Century Infl Adj Bond A	0.00	113.27	0.00	2.73	196	13.33
27. Prudential High-Yield Z	0.00	94.64	3.91	1.41	602	15.25
28. American Funds Europacific Growth R4	85.67	0.30	13.09	0.93	527	23.25
29. Oppenheimer Developing Markets Y	92.07	0.00	5.53	2.40	241	7.83



# **Institutional Advancement Committee**

# Agenda

# INSTITUTIONAL ADVANCEMENT COMMITTEE

April 13, 2015

## Agenda

### OPEN SESSION

1. Approval of agenda
2. Approval of the minutes of the Committee's open session meeting on January 22, 2015
3. Update on development activities
4. Consider and act on LSC's Minnesota Charitable Organization Annual Form,  
**Resolution 2015-XXX**
5. Public comment
6. Consider and act on other business
7. Adjourn open session

### CLOSED SESSION

1. Consider and act on agenda
2. Approval of minutes of the Committee's closed session meeting on March 6, 2015
3. Consider and act on prospective donors
4. Consider and act on prospective Leaders Council members
5. Development report
6. Adjourn closed session

**Institutional Advancement Committee**  
**Draft Minutes of the January 22, 2015**  
**Open Session Meeting**

**Legal Services Corporation  
Meeting of the Institutional Advancement Committee**

**Open Session**

**Thursday, January 22, 2015**

**DRAFT**

Chairman John G. Levi convened an open session meeting of the Legal Services Corporation's ("LSC") Institutional Advancement Committee ("the Committee") at 4:30 p.m. on Thursday, January 22, 2015. The meeting was held at the Westin Colonnade Hotel, 180 Aragon Avenue, Coral Gables, Florida 33134.

The following Committee members were present:

John G. Levi, Chairman  
Robert J. Grey, Jr.  
Charles N. W. Keckler  
Martha L. Minow  
Father Pius Pietrzyk  
Herbert S. Garten, (Non-Director Member)  
Thomas Smegal (Non-Director Member) by telephone  
Frank B. Strickland (Non-Director Member)

Other Board members present:

Victor B. Maddox  
Laurie Mikva  
Julie A. Reiskin  
Gloria Valencia-Weber

Also attending were:

James J. Sandman	President
Rebecca Fertig Cohen	Special Assistant to the President
Wendy Rhein	Chief Development Officer
Ronald S. Flag	Vice President for Legal Affairs, General Counsel, and Corporate Secretary
David Richardson	Comptroller/Treasurer, Office of Financial and Administrative Services
Lynn Jennings	Vice President for Grants Management
Jeffrey Schanz	Inspector General
Carol Bergman	Director, Office of Government Relations and Public Affairs (GRPA)

Carl Rauscher	Director of Media Relations, Office of Government Relations and Public Affairs (GRPA)
Lora M. Rath	Director, Office of Compliance and Enforcement (OCE)
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the Inspector General
David Maddox	Assistant Inspector General for Management and Evaluation, Office of the Inspector General
Daniel O'Rourke	Assistant Inspector General for Investigations
Bristow Hardin	Office of Program Performance (OPP)
Marcos Navarro	Office of Government Relations and Public Affairs (GRPA)
Allan Tanenbaum	Non-Director Finance Committee Member
Nikole Nelson	Executive Director, Alaska Legal Services Corporation
Rafael E. Rodriguez Rivera	Community Law Office, Puerto Rico
Don Saunders	National Legal Aid and Defenders Association (NLADA)
Robin C. Murphy	National Legal Aid and Defenders Association (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:

Chairman Levi called the meeting to order.

**MOTION**

Mr. Grey moved to approve the agenda. Father Pius seconded the motion.

**VOTE**

The motion passed by voice vote.

**MOTION**

Mr. Grey moved to approve the minutes of the Committee's meetings of October 1 & 6, 2014, and December 2, 2014. Father Pius seconded the motion.

**VOTE**

The motion passed by voice vote.

Chairman Levi briefly praised the hard work of the LSC staff and Committee in 2014. Ms. Rhein thanked everyone for their continuous work with the Committee. She then briefed the Committee on the Committee's goals for 2015. She answered Committee members' questions.

Next, Chairman Levi briefed the Committee on the importance of partnering with the business community in development activities.

Ms. Rhein gave a report on the proposed LSC Leaders Council and the accompanying resolution. She answered Committee members' questions.

**MOTION**

Father Pius moved to approve the LSC Leaders Council resolution. Mr. Grey seconded the motion.

**VOTE**

The motion passed by voice vote.

Chairman Levi invited public comment and received none. There was no new business to consider.

**MOTION**

Mr. Keckler moved to authorize an executive session of the Committee meeting. Father Pius seconded the motion.

**VOTE**

The motion passed by voice vote.

The Committee continued its meeting in close session at 4:45p.m.

# **Development Activities**



## Development Report

March 31, 2015

### **1. Foundations**

Work continues on several foundation grants and concepts. As all of these potential grants are in process and not yet awarded to LSC, the details of these developments will be shared in closed session.

### **2. Law Firms**

LSC's Office of Program Performance will launch the G. Duane Vieth Leadership Development Program, funded by the Arnold & Porter Foundation, in April with the goal of making the first awards in June 2015. The grants may be used to support training, coaching, or other professional development in non-profit leadership competencies and skills, including data management and evaluation, maximizing client service with limited resources, finance and accounting, and the smart use of information technology.

Meetings continue in several cities including San Francisco, New York, and Washington DC. The chairman has asked staff to develop teams of board members, IAC members and others who will engage firms in these and other cities including Atlanta, Houston, Boston, Seattle and Chicago.

Jim Sandman received a \$5,000 contribution to LSC from a law firm for a recent speaking engagement that has been added to the campaign.

### **3. Individuals**

Over the last three months LSC received several online gifts from 23 new donors who learned of LSC from an anonymous blog on the Cracked.com platform. The gifts are small, in the \$5 to \$50 range, though several signed on to be automatic monthly donors, increasing the value of their initial gift twelve-fold.

### **4. Operations**

Office of Development and the Office of Information Technology collaborated to change online payment vendors in favor of a system that is less expensive per transaction and will link directly with the new development database. The change required changes in code, changes in text and giving levels, revamping graphics, and testing.

The Office of Development also launched a new blog feature on the [www.lsc40.lsc.gov](http://www.lsc40.lsc.gov) campaign page. This blog will feature profiles of donors and newly funded programs, updates to the campaign, and other development-specific programs. These blogs have been posted on the LSC's Facebook page and shared on Twitter.

In February the Office of Development installed a new wealth-screening and prospecting tool called Wealth Engine. This new service integrated into the development database and will provide information on prospects and donors that will support our efforts. In addition to unlimited individual screenings, LSC has up to 3,000 in-depth screenings with a report that will prioritize potential prospects for major gifts, mid-range gifts, bequests/planned gifts and multi-year pledges. This new research tool will also provide past giving to non-profits and political organizations for 20 years. This new service integrated into the development database and will provide publically-available information, for example donations made to organizations reported in annual reports and 990's, federal and state political contributions, and boards of directors on which a prospect or donor serves. This detailed information will support our efforts.

#### **5. Total giving**

LSC has secured \$4,091,801.70 in gifts and pledges.

**Minnesota Charitable Organization  
Annual Form**



BOARD OF DIRECTORS

## RESOLUTION

### APPROVING THE MINNESOTA CHARITABLE ORGANIZATION ANNUAL REPORT FORM

**WHEREAS**, on July 23, 2013, the LSC Board of Directors (“Board”) adopted Resolution 2013-013 approving the Minnesota Charitable Organization Initial Registration & Annual Report Form;

**WHEREAS**, section 309.53 of the Minnesota Charitable Solicitations Act requires registered charitable organizations to file an annual report to remain in good standing with the Office of the Attorney General of Minnesota;

**WHEREAS**, the Minnesota Charitable Organization Initial Registration & Annual Report Form requires a resolution by the Board approving the contents of the document and authorizing LSC’s officers to execute the document;

**WHEREAS**, LSC has completed the Minnesota Charitable Organization Initial Registration & Annual Report Form and presented it to the Board to approve the contents of the document;

**NOW, THEREFORE, BE IT RESOLVED THAT**, the Board of Directors approves the contents of the attached Minnesota Charitable Organization Initial Registration & Annual Report Form and authorizes LSC’s officers to submit the document to the Attorney General of Minnesota.

**Adopted by the Board of Directors**  
On April 14, 2015

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**John G. Levi**  
*Chairman*

**Attest:**

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

# **Board of Directors**

# **Board Agenda**

# **BOARD OF DIRECTORS**

**April 14, 2015**

## **Agenda**

### **OPEN SESSION**

1. Pledge of Allegiance
2. Approval of agenda
3. Approval of minutes of the Board's Open Session meeting of January 24, 2014
4. Chairman's Report
5. Members' Reports
6. President's Report
7. Inspector General's Report
8. Consider and act on the report of the Finance Committee
9. Consider and act on the report of the Audit Committee
10. Consider and act on the report of the Operations and Regulations Committee
11. Consider and act on the report of the Governance and Performance Review Committee
12. Consider and act on the report of the Institutional Advancement Committee
13. Consider and act on the report of the Delivery of Legal Services Committee
14. Report on implementation of recommendations of the Pro Bono Task Force Report and the Pro Bono Innovation Fund
15. Public comment

16. Consider and act on other business
17. Consider and act on whether to authorize a closed session of the Board to address items listed below

### **CLOSED SESSION**

18. Approval of minutes of the Board's Closed Session of January 24, 2014
19. Management briefing
20. Inspector General briefing
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 prospective members of Leaders' Council
24. Consider and act on motion to adjourn meeting



**Draft Minutes of the January 24, 2015  
Open Session Meeting**

**Legal Services Corporation  
Meeting of the Board of Directors**

**Open Session**

**Saturday, January 24, 2015**

**DRAFT**

Chairman John G. Levi convened an open session meeting of the Legal Services Corporation's ("LSC") Board of Directors at 9:36 a.m. on Saturday, January 24, 2015. The meeting was held at the Westin Colonnade Hotel, 180 Aragon Avenue, Coral Gables, Florida 33134.

The following Board members were present:

John G. Levi, Chairman  
Martha L. Minow, Vice Chair  
Robert J. Grey, Jr.  
Charles N.W. Keckler  
Harry J. F. Korrell, III  
Victor B. Maddox  
Laurie Mikva  
Father Pius Pietrzyk, O. P.  
Julie A. Reiskin  
Gloria Valencia-Weber  
James J. Sandman, *ex officio*

Also attending were:

Rebecca Fertig Cohen	Special Assistant to the President
Lynn Jennings	Vice President for Grants Management
David Richardson	Comptroller and Treasurer, Office of Financial and Administrative Services (OFAS)
Ronald S. Flagg	Vice President for Legal Affairs, General Counsel, and Corporate Secretary
Wendy Rhein	Chief Development Officer
Jeffrey Schanz	Inspector General
John Seeba	Assistant Inspector General for Audit, Office of the Inspector General (OIG)
David Maddox	Assistant Inspector General for Management and Evaluation, Office of the Inspector General (OIG)
Laurie Tarantowicz	Assistant Inspector General and Legal Counsel, Office of the Inspector General

Daniel O'Rourke	Assistant Inspector General for Investigations, Office of the Inspector General
Carol A. Bergman	Director, Office of Government Relations and Public Affairs (GRPA)
Carl Rauscher	Director of Media Relations, Office of Government Relations and Public Affairs (GRPA)
Lora M. Rath	Director, Office of Compliance and Enforcement (OCE)
Janet LaBella	Director, Office of Program Performance
Jane Ribadeneyra	Program Analyst, Office of Program Performance
Allan J. Tanenbaum	Non-Director Member, Finance Committee
Rafael E. Rodriguez Rivera	Community Law Office Inc., Puerto Rico
Charles Hey-Maestre	Executive Director, Puerto Rico Legal Services, Inc.
Barbara Prager	Executive Director, Coast to Coast Legal Aid of South Florida
Kris Kaub	Executive Director, Legal Services of North Florida
Joan Boles	Deputy Director, Bay Area Legal Services
Vanessa Henry	Board Member, Three Rivers Legal Services, Inc.
Melissa Pershing	Florida Bar Foundation
Don Saunders	National Legal Aid and Defenders Association (NLADA)
Robin C. Murphy	National Legal Aid and Defenders Association (NLADA)

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

Chairman Levi called the meeting to order. The Pledge of Allegiance was recited.

**MOTION**

Dean Minow moved to approve the agenda. Ms. Reiskin seconded the motion.

**VOTE**

The motion passed by voice vote.

**MOTION**

Ms. Reiskin moved to approve the minutes of October 7, 2014 and November 17, 2014. Dean Minow seconded the motion.

**VOTE**

The motion passed by voice vote.

**MOTION**

Mr. Grey moved to nominate Chairman Levi to continue his service as Board Chairman. Ms. Reiskin seconded the motion.

**VOTE**

The motion passed by voice vote.

**MOTION**

Ms. Reiskin moved to nominate Vice Chair Minow to continue her service as Board Vice Chair. Mr. Maddox seconded the motion.

**VOTE**

The motion passed by voice vote.

Chairman Levi gave the Chairman's Report. He thanked the Board for its continuing hard work and acknowledged several individuals for making the Coral Gables meeting and events a success.

During members' reports, Ms. Reiskin reported that she and President Sandman spoke at the National Legal Aid and Defenders Association (NLADA) conference; Ms. Reiskin also reported on her experience on a program visit. Father Pius commented on the joint meeting of the Board and the ABA (American Bar Association), and the positive outcomes of the Pro Bono Innovation Fund and Pro Bono Task Force. He also introduced client board member Vanessa Henry from Three Rivers Legal Services, Inc. who briefed the board on her experiences and involvement with legal services. Mr. Keckler and Professor Valencia Weber reported on their attendance at the TIG conference. Professor Valencia- Weber also thanked non-Director Board Members for their ongoing support and guidance.

President Sandman gave the President's Report, which covered basic field grants for 2015, the Technology Initiative Grant Conference, changes in the application process for Pro Bono Innovation Fund grants for 2015, improvements in LSC internal business processes, Public Welfare Foundation and Margaret A. Cargill grants; and the annual report on Freedom of Information Act (FOIA). He answered board members questions.

Dean Minow gave the Governance and Performance Review Committee report.

**MOTION**

Dean Minow moved to adopt the resolution amending LSC's Code of Ethics and Conduct with noted changes.

**VOTE**

The motion passed by voice vote.

Inspector General Schanz gave the Inspector General's Report which included introducing the new Assistant Inspector General for Investigations, Daniel O'Rourke. He discussed OIG's Management Information Memo (MIM), a vehicle used to provide information to LSC Management. He also reported on the peer review system, and OIG's 2015 work plan. He answered board members questions.

**MOTION**

Chairman Levi moved to adopt the resolution recognizing Sharon L. Browne.

**VOTE**

The motion passed by voice vote.

Mr. Grey gave the report for the Finance Committee.

**MOTION**

Mr. Grey moved to adopt the resolution on the consolidated operating budget for fiscal year 2015.

**VOTE**

The motion passed by voice vote.

Mr. Maddox gave the report for the Audit Committee.

**MOTION**

Mr. Maddox moved to adopt the resolution amending the 403(b) Thrift Plan.

**VOTE**

The motion passed by voice vote.

Mr. Keckler gave the Operations and Regulations Committee report.

**MOTION**

Mr. Keckler moved to approve publication of the Notice of Proposed Rulemaking regarding 45 CFR Part 1640.

**VOTE**

The motion passed by voice vote.

**MOTION**

Mr. Keckler moved to approve publication of the Request for Comments – Agricultural Worker Population Data for Basic Field Migrant Grants Notice for 45-day comment period.

**VOTE**

The motion passed by voice vote.

Chairman Levi gave the Institutional Advancement Committee report.

**MOTION**

Chairman Levi moved to approve the charter and resolution establishing the LSC Leaders Council.

**VOTE**

The motion passed by voice vote.

Father Pius gave the Delivery of Legal Services Committee report.

Chairman Levi invited public comment. There was no new business to consider.

**MOTION**

Father Pius moved to authorize a closed session of the Board meeting. Mr. Korrell seconded the motion.

**VOTE**

The motion passed by voice vote.

The Board continued its meeting in closed session at 11:26 a.m.

**Office of Inspector General  
Draft Strategic Plan**



Office of Inspector General  
Legal Services Corporation

Inspector General  
Jeffrey E. Schanz

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## MEMORANDUM

**TO:** LSC Board of Directors

**FROM:** Jeffrey Schanz, Inspector General 

**SUBJECT:** Draft LSC OIG Strategic Plan (2015 – 2019)

**DATE:** March 26, 2015

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Attached for your attention is a draft of the Office of Inspector General (OIG) Strategic Plan for the years 2015 - 2019, dated March 26, 2015. This draft is the product of our cumulative OIG experience as well as thoughtful internal discussions and deliberations.

The purpose of the Strategic Plan is to serve as the highest level OIG planning document, laying out our mission, vision, goals, objectives, and strategies. The Plan will be supplemented by on-going risk assessments, work planning and reporting so that we can best respond to our stakeholders' needs.

We will also be posting the draft Plan to the OIG website for additional stakeholder and public comments.

Please provide any comments you may have to David Maddox, Assistant Inspector General for Management and Evaluation. We would appreciate receiving your input by May 8<sup>th</sup>, so we can move forward to prepare the final Plan. David can be reached at (202) 295-1653 or by email at [dm@oig.lsc.gov](mailto:dm@oig.lsc.gov). Thank you.

cc: Jim Sandman  
Ron Flagg



*LEGAL SERVICES CORPORATION  
OFFICE OF INSPECTOR GENERAL*



*Strategic Plan  
2015 - 2019*

*March 26, 2015*

## *Message from the Inspector General*

I am pleased to present the Strategic Plan of the Legal Services Corporation (LSC) Office of Inspector General (OIG) for the years 2015 to 2019. LSC was established to promote equal access to justice by funding civil legal assistance for low-income Americans. This Strategic Plan defines the goals, objectives, and strategies for our activities, under the authority of the Inspector General Act, to promote efficiency, effectiveness, and integrity in LSC's and its grant recipients' programs and operations.

The OIG contributes to LSC's mission success by helping to protect its programs from fraud and abuse; providing Congressionally mandated oversight; and by providing independent and objective analysis to assist decision-makers in improving performance, accountability, and transparency throughout the federally funded civil legal aid program.

Audits, investigations, and reviews are the primary tools used by the OIG to help protect and maximize Federal taxpayer dollars invested in civil legal aid. The OIG's multidisciplinary staff functions as a team of dedicated professionals that sets high standards in the conduct of the OIG's work. We take an impartial and fact-based approach to all of our activities. We strive each day to ensure that our work is of the highest quality, and is timely, accurate, fair, and useful as we understand the integrity of our products is the foundation of our reputation. Ultimately, the success of this Plan and of the OIG depends upon the daily contributions of each employee and our commitment to the core values and mission of the OIG and to the fundamental mission of LSC.

In this Plan we set out our key objectives and strategies to be a relevant and effective resource for LSC management, its Board of Directors, and the Congress into the future. As much of our work is driven by current issues and program initiatives, as well as requests from stakeholders, the Plan is flexible. It will be supplemented by continuous risk assessments and annual OIG work planning and priorities. The Plan will be updated periodically as appropriate. In this manner we look forward to continuing to provide valued service to the Legal Services Corporation, the Congress, legal aid eligible persons, and the American taxpayer.

Sincerely,

Jeffrey E. Schanz  
Inspector General

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## *Mission*

The mission of the OIG<sup>1</sup> is to serve as an independent resource to protect the integrity and improve the efficiency of LSC's and its grant recipients' programs and operations. We perform our mission by carrying out objective audits, investigations, and reviews that help support LSC to:

- Prevent, deter and detect fraud, waste, and abuse;
- Promote economy, efficiency and effectiveness; and,
- Keep LSC management, the Board of Directors, and the Congress fully and currently informed.

## *Vision*

We will be a highly effective Office of Inspector General that identifies opportunities for improvements in the accountability, integrity, and performance of the federally-funded civil legal aid program.

## *Statutory Responsibilities*

As prescribed by the IG Act, we will:

- Maintain an independent and objective organization to conduct and supervise audits and investigations relating to the operations of LSC and its grant recipients;
- Recommend policies for activities to promote economy, efficiency, and effectiveness in the administration of LSC and the programs it funds;
- Take appropriate actions to prevent and detect fraud, waste and abuse in LSC and grantee operations;
- Seek and coordinate beneficial relationships between LSC and governmental agencies, and nongovernmental entities to achieve these ends;
- Keep the Board of Directors and the Congress fully informed about problems and deficiencies and the necessity for and progress of corrective action;

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<sup>1</sup> See *Appendix – A, Statutory and Institutional Framework, page 9.*

- Receive and, as appropriate, investigate complaints from any person or entity, including the Congress;
- Report violations of law to the U.S. Attorney General or appropriate law enforcement officials;
- Notify the Board of Directors and the Congress of serious or flagrant problems in LSC or its grant recipients;
- Review and make recommendations regarding existing and proposed legislation and regulations;
- Protect the identity of whistleblowers; and,
- Provide semiannual and other reports to the Congress.

Furthermore, we perform additional responsibilities as assigned by the Congress.<sup>2</sup>

## Core Values

The OIG's efforts are guided by these five core values which we believe are critical to fulfilling our responsibilities:

1. Accountability - We take responsibility for the quality of our work and promote a commitment to excellence, objectivity, and consistency in all our efforts. We must act with fiscal responsibility and be good stewards of taxpayer dollars with respect to our own operations, and foster the same conduct and approach in LSC programs.
2. Integrity - We act ethically and morally and strive to maintain the highest level of trust, honesty and credibility.
3. Professionalism - We adhere to the professional standards of our disciplines, demonstrate high standards of professional conduct, and strive to produce objective, relevant, and high-quality work products.
4. Communication - We value honesty and transparency and promote effective, accurate, and timely communications with LSC management and staff, the Board, and Congress, as well as with external stakeholders.
5. Teamwork - We are committed to fostering a friendly and respectful work environment. We believe in constructive relationships and effective communications, working together to achieve our mission and goals.

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<sup>2</sup> See Appendix – A Statutory and Institutional Framework, page 10.

## Goals

In fulfilling our mission and statutory responsibilities the OIG's goals are to:

**Goal 1: Promote LSC effectiveness by delivering high value OIG products** as a trusted advisor that identifies areas for improvement and communicates those to stakeholders.

**Goal 2: Advance excellence** in OIG performance by effectively managing and leveraging our human resources and information systems.

## Objectives and Strategies

The OIG's objectives and strategies in pursuing our goals are to:

**Goal 1: Promote LSC effectiveness by delivering high value OIG products.**

Objective 1 – Prevent and minimize fraud, waste and abuse throughout the federally funded civil legal aid program.

Strategies:

- Perform outreach and education programs to promote awareness of fraud vulnerabilities and prevention measures;
- Provide proactive vulnerability assessments to evaluate and enhance the integrity of operations and controls;
- Run detection programs including a national hotline and annual audits;
- Conduct investigations and refer findings to federal, state or local law enforcement and professional disciplinary authorities;
- Ensure protections for whistleblowers.

Objective 2 – Promote economy and efficiency within LSC and its grant recipients.

Strategies:

- Perform fiscal/compliance/performance audits and assessments of the programs and operations of LSC and its grant recipients;
- Oversee the LSC audit program including the LSC and grant recipients annual audits;

- Enhance coordination with grant recipients' Independent Public Accountants (IPAs) and LSC's Offices of Compliance and Enforcement and Program Performance;
- Identify and promote best practices of similar leading organizations;
- Review and comment on the effectiveness of related legislation and regulations.

Objective 3 – Deliver credible, relevant and high quality products.

Strategies:

- Maintain independence and operational flexibility;
- Stay informed about LSC initiatives and solicit input from stakeholders;
- Perform on-going risk assessments, prioritize work in high risk areas, and maximize coverage of program and operations;
- Ensure timeliness and usefulness of products;
- Meet or exceed professional quality standards;
- Leverage working relationships in the IG community and employ best practices.

Objective 4 – Foster open and effective communication and working relations.

Strategies:

- Regularly communicate with LSC management and staff, the Board of Directors, and the Congress;
- Enhance outreach to effectively communicate OIG initiatives and strengthen relationships with stakeholders;
- Employ the 3C's – Communication, Coordination and Cooperation operating philosophy;
- Maintain a user-friendly, current, and useful OIG website.

## **Goal 2: Advance excellence**

Objective 1 – Enhance OIG performance and management practices.

Strategies:

- Improve measures and track the OIG contribution;
- Review and augment operational efficiencies;
- Ensure effective communication within and across work components to fully inform organizational planning and performance;
- Facilitate internal improvement recommendations.

Objective 2 – Promote professionalism and talent.

Strategies:

- Recruit and retain a highly-skilled workforce;
- Support a motivated, results oriented work culture and uphold core values;
- Promote professional growth through training and ongoing professional development;
- Provide a flexible work environment;
- Ensure succession and transition planning.

Objective 3 – Strengthen information management and technology solutions.

Strategies:

- Leverage data analytics in OIG strategy and operations;
- Improve and formalize sharing of LSC and grantee data;
- Strengthen the management of OIG data;
- Stay current with information technology best practices, including security.

## *Relationship to LSC Strategic Plan*

The Strategic Goals of the Legal Services Corporation, as stated in its strategic plan for fiscal years 2012 – 2016 are to:

1. Maximize the availability, quality, and effectiveness of the civil legal services that its grantees provide to eligible low-income individuals;
2. Become a leading voice for civil legal services for poor Americans; and
3. Achieve the highest standards of fiscal responsibility both for itself and its grantees.

The OIG provides independent, objective, and valued oversight to assist LSC in fulfilling its strategic goals for the benefit of the American people.

In recent years the Corporation has embarked on a series of initiatives to review and redesign management programs and controls in the areas of corporate governance, grants management, fiscal oversight, contracting and acquisition, private fundraising, information management, information technology security and human capital management. The OIG will focus its work to help ensure the processes reap the benefits that the LSC and the Congress anticipate and provide sufficient controls to ensure accountability.



## LSC Management Challenges

The OIG has independently identified the following as areas that we consider to be serious management and performance challenges facing the Corporation. The OIG uses its ongoing risk assessments to identify and monitor high risk areas and guide future OIG work planning.<sup>3</sup> These areas are also among those commonly identified by the Government Accountability Office and other OIGs in the annual Council of Inspectors General on Integrity and Efficiency Report to the President.

### LSC Challenge Areas:

1. Performance Management and Accountability. LSC recognizes the challenge that it must collect and effectively use reliable performance and accountability data to assess and demonstrate LSC's and its grant recipient's performance and value in order to ensure funder support and accountability. This information is needed to support strategy, policy and operational improvements to achieve the greatest benefit to the public. LSC needs to continue to be innovative in finding ways to garner and leverage scarce financial resources invested in civil legal aid.
2. Procurement and Grants Management. Throughout the federal government, procurement and grants have historically been prone to fraud and waste. Improving management and oversight in these areas remains a challenge at LSC. LSC needs to continue to improve grants administration and oversight (including sub-grants), to strengthen acquisition management programs, and to ensure compliance with laws and regulations (including congressionally mandated practice restrictions).
3. Governance. LSC must maintain the requisite independence from its grant recipients and those who represent them to objectively fulfill its statutory responsibilities provided by the Congress. Uneven oversight by grant recipient boards provides an opportunity to strengthen the local level governance and accountability that is so important to the integrity of the national program.

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<sup>3</sup> The practice is required at major government agencies by the *Reports Consolidation Act of 2000*, 31 USC §3516(2)(d), and is incorporated here as an OIG best practice.

4. Human Capital Management. Managing human capital - hiring, training, and retaining a competent and motivated staff - is a performance challenge that concerns LSC and its grant recipients. Particular challenge areas include performance management, compensation systems, newly unionized workforce, workforce morale, and succession planning.
5. Information Technology Management and Security. Ensuring that LSC's and its grant recipients' information systems are effective and safe is crucial to program operations. Significant challenges in this area include: the creation of an LSC-wide grantee information management system, security of LSC and grantees confidential data, and disaster recovery. Ensuring the effectiveness of its technology investments, including the Technology Initiative Grants, also requires meeting the challenges of standardization, replication and sustainability of its projects.
6. Management Control Systems. Updating and maintaining a sound system of controls to manage the programs and operations of LSC and the grant recipients remains a serious management challenge.

## *Environmental Impacts*

The OIG faces several external influences and challenges in meeting our strategic goals and objectives including:

- Inability to ensure management implementation of OIG recommendations;
- Timely access to LSC and grant recipient data;
- Inevitable changes in Congressional, Board of Directors and management priorities and leadership;
- Funding limitations;
- Impact of the political environment on LSC and OIG support; and,
- Unforeseen events.

## Appendix A: Statutory and Institutional Framework

In 1988, the Congress amended the IG Act and required LSC and about 30 other small, federally-funded entities to establish independent Offices of Inspector General. General OIG authority derives from the *Inspector General Act of 1978, 5 U.S.C. Appendix 3*, as amended, which provided for the creation of an independent and objective unit—

- to conduct and supervise audits and investigations relating to the programs and operations of the establishment;<sup>4</sup>
- to provide leadership and coordination and recommend policies for activities to promote activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations;<sup>5</sup> and
- to provide a means to keep the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action.<sup>6</sup>

Annual LSC Appropriation Acts, which include a separate budget line for the OIG, assign various responsibilities to the OIG,<sup>7</sup> including to: oversee IPA audits, manage suspension /debarment program re IPAs, provide additional oversight responsibilities as directed by the Congress.

Today, the LSC OIG works together with 71 other statutory OIGs in the Council of Inspectors General on Integrity and Efficiency (CIGIE) in furtherance of the IG mission. CIGIE was statutorily established as an independent entity within the executive branch by the *Inspector General Reform Act of 2008, P.L. 110-409* to:

- address integrity, economy, and effectiveness issues that transcend individual Government agencies; and
- increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General.

To accomplish its mission, the CIGIE:

- continually identifies, reviews, and discusses areas of weakness and vulnerability in federal programs and operations with respect to fraud, waste, and abuse;

<sup>4</sup> *Inspector General Act*, §§2(1); 4(a)(1).

<sup>5</sup> *Inspector General Act*, §§2(2); 4(a)(2),(3) and (4).

<sup>6</sup> *Inspector General Act*, §§2(3); 4(a)(5).

<sup>7</sup> FY 1996, *Pub. L. 104—134*, 110 *Stat. 1321* (1996) §509.

- develops plans for coordinated, government-wide activities that address these problems and promote economy and efficiency in federal programs and operations, including interagency and interentity audit, investigation, inspection, and evaluation programs and projects to deal efficiently and effectively with those problems concerning fraud and waste that exceed the capability or jurisdiction of an individual agency or entity;
- develops policies that will aid in the maintenance of a corps of well-trained and highly skilled Office of Inspector General personnel;
- maintains an Internet website and other electronic systems for the benefit of all Inspectors General;
- maintains one or more academies as the Council considers desirable for the professional training of auditors, investigators, inspectors, evaluators, and other personnel of the various offices of Inspector General;
- submits recommendations of individuals to the appropriate appointing authority for any appointment to an office of Inspector General, as described elsewhere in the act;
- makes such reports to the Congress as the Chairperson determines are necessary or appropriate; and,
- performs other duties within the authority and jurisdiction of the Council, as appropriate.

## Appendix B: OIG Organizational Structure

The IG mission is performed by the five components of the OIG.

**Audit** – Directs the LSC audit program reviewing LSC and grantee programs and operations. The unit oversees the grantee audit process, including providing audit guidance, tracking IPA findings and corrective action, and conducting the audit Quality Control Review program. It also performs financial, compliance and performance audits.

**Executive** – Leads the accomplishment of the IG mission at LSC and oversees all OIG components and operations. The executive staff keeps the Board of Directors and the Congress informed and consults on topics with the LSC Board and management. Its members actively participate in CIGIE activities, including the CIGIE Audit Committee.

**Investigation** – Supervises the proactive fraud and non-compliance prevention program; actively investigates instances of fraud, waste, abuse, and mismanagement involving LSC's and its grant recipients' programs, operations and personnel; and reports results to appropriate authorities and assists in prosecutions and civil recovery actions.

**Legal** – Provides legal advice to all OIG components; reviews and comments on legislation, regulations and policies affecting LSC and its operations; represents the OIG in litigation, including subpoena enforcement matters; responds to Freedom of Information Act requests; reviews and processes subpoenas; and suspends or debars IPAs from auditing LSC grantees as needed.

**Management and Evaluation** – Manages the business operations of the OIG, including strategic planning, budget and financial management, human resources, information technology, information management systems, procurement, administration and facilities. It also conducts evaluations and reviews for improving program operations and policies, risk assessments, and provides general analytical support.

**Pro Bono Task Force Report  
and Pro Bono Innovation Fund  
Implementation Updates**

# **LSC PRO BONO TASK FORCE IMPLEMENTATION UPDATE**

## **APRIL 2015**

### **I. PRO BONO TASK FORCE OVERVIEW**

In March 2011, LSC created a Pro Bono Task Force (“PBTF”) comprised of judges, corporate general counsels, 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. Since then, LSC has made significant progress in implementing the Task Force’s recommendations. The following provides an update on recent activity.

### **II. IMPLEMENTING THE TASK FORCE RECOMMENDATIONS**

#### **A. Development and Implementation of a Pro Bono Innovation Fund**

One of the Task Force’s key recommendations was for LSC to work with Congress to create a Pro Bono Innovation/Incubation Fund. Within two years, this recommendation was implemented and funding awards were announced. On January 17, 2014, the President signed P.L. 133-76, the Consolidated Appropriations Act of 2014, which included \$2.5 million in LSC’s appropriation for the creation of a Pro Bono Innovation Fund. Soon after Congress acted, LSC developed and implemented a competitive grant program with a rigorous review process.

##### *i. PBIF Round I Awardees*

In September 2014, LSC announced the inaugural class of eleven PBIF awardees. Since the announcement of their awards, programs have been submitting subgrants for review, collaborating with their partners, hiring for new project positions, and seeking additional funding, from other sources to leverage and sustain their work.

Other PBIF staff activities include:

- Hosting a Pro Bono Innovation Fund Affinity Group and Dinner at the Annual TIG conference in San Antonio, TX.
- Participating in the Pro Bono Work Group for session development at the Annual Equal Justice Conference in Austin, TX in May 2015. In addition to LSC’s planned conference session on the Pro Bono Innovation Fund, two PBIF grantees have been selected to highlight their projects and experiences in separate conference sessions. LSC staff is also planning to convene all Pro Bono Innovation Fund grantees at the conference for a half-day of meetings and knowledge-sharing about their projects.

- LSC issued a Request for Proposals (“RFP”) for an evaluation of Round I of PBIF grantees. We have received seven responses. The selection committee anticipates selecting the evaluation consultant by mid-May.

ii. *PBIF Round II Status*

In FY 2015, Congress increased the appropriation for the PBIF from \$2.5 million to \$4 million. LSC published a solicitation for Letters of Intent (“LOIs”) in late January 2015. The LOI deadline was February 23, 2015. The following are details related to the LOI phase of Round II:

- 59 Letters of Intent were submitted for the 2015 cycle, compared with 79 full applications in the 2014 cycle.
- 55 different grantee organizations from 38 states submitted LOIs. In 2014, 78 different grantee organizations applied from 41 states.
- Of the 55 organizations that submitted LOIs in 2015, 43 submitted full applications in 2014 and 12 organizations are first-time applicants.
- The total amount of the requests from the 2015 LOIs is \$12.4 million, compared to a total of \$15.3 million sought in field applications in 2014.
- The average request from the estimated budgets is \$211,000 in 2015, compared to the average request in 2014 of \$196,000. The average award in 2014 was \$213,000.
- In the 2015 cycle, the smallest request is for \$43,000 and largest request is for \$485,000. In 2014, the smallest request was for \$46,000 and the largest request was for \$459,000.

The PBIF team and LSC management have reviewed the LOIs and have invited 25 full applications for a total of \$6.2 million. The full application deadline is May 18, 2015. We anticipate making funding announcements by the end of July.

**B. Revision of LSC’s Private Attorney Involvement Regulation**

The Pro Bono Task Force also recommended that LSC revise its Private Attorney Involvement (PAI) regulation to encourage pro bono. This recommendation has been implemented. Following extensive outreach to grantees and other stakeholders and multiple rounds of public comments, LSC published a final rule revising 45 C.F.R. Part 1614 on October 15, 2014. 79 Fed. Reg. 61770 (Oct. 15, 2015). The new regulation became effective November 14, 2014. Since that time, LSC has conducted outreach to its grantees regarding the new regulation, including a well-attended session at the November 2014 NLADA meeting, and has responded to a number of questions from grantees.

**Status of Implementation:**

To address the changes in the regulation, the Office of Program Performance has revised the PAI section of the competition application. Additionally, the Office of Compliance and Enforcement is revising the oversight of PAI to address the rule changes. LSC will also revise grantee reporting requirements that are part of LSC’s annual Grant Activity Reporting requirements. The Office of Legal Affairs has prepared and posted Frequently Asked Questions (“FAQs”) about the new regulation to the LSC web site. LSC intends to update the FAQs as additional inquiries from the field are received. The current FAQs are set forth below.



### **Definition of Private Attorney**

**Private Attorneys 1: What if an attorney is not licensed in the state in which the client’s legal case is filed, but will be admitted pro hac vice and will co-counsel the case with a recipient attorney?**

**Answer:** The attorney meets the 45 C.F.R. § 1614.3(a) definition of “attorney.” That definition states that “attorney” means a person who is authorized to practice law in the jurisdiction in which assistance is rendered.” (Emphasis added.) Even if the attorney is admitted only for the purpose of representing an individual in the case that he or she is co-counseling with the recipient, that person is an “attorney” within the meaning of § 1614.3(a).

**Private Attorneys 2: Under what, if any, circumstances may a government attorney be used for PAI? If a government attorney for an agency such as EEOC is separately handling a case involving the same claims and the same client as a recipient, would that be considered PAI?**

**Answer:** LSC revised the definition of “private attorney” in part to clarify that government attorneys may participate in a recipient’s PAI activities. This means that a government attorney may, to the extent authorized by the terms of his or her employment with the government, represent a recipient’s clients, provide legal information in a clinic, or otherwise provide support to the recipient as part of the recipient’s PAI program. The EEOC-common interest litigation scenario described in the question, however, would not count as PAI. The EEOC attorney may share an interest in the handling and outcome of the case, but because the attorney is engaging with the recipient’s client as part of her government employment, rather than volunteering in a case she would not otherwise be participating in, her involvement does not count as PAI. For similar reasons, her work would not count as support to the recipient for PAI purposes.

**Private Attorneys 3: Are full-time fellows who receive a living allowance or a salary from a third party, such as AmeriCorps VISTA fellows, Equal Justice Works fellows, or Skadden fellows, to work for a recipient “private attorneys” for purposes of the PAI rule?**

**Answer:** No. LSC considers full-time fellows at a recipient, regardless of their funding source, to be employed by the recipient for purposes of the PAI rule. This is true regardless of whether the funding is characterized as a salary, stipend, living allowance, or subsistence allowance; as well as whether the recipient is providing any compensation of its own.

**Private Attorneys 4: According to the new rule, the term “private attorney” excludes an attorney who is “acting within the terms of his or her employment by a non-profit organization whose primary purpose is the delivery of free civil legal services to low-income individuals” or who is “acting within the terms of his or her employment by a component of a non-profit organization, where the component’s primary purpose is the delivery of free civil legal services to low-income individuals.” How does a recipient determine if the organization’s or component’s primary purpose is the delivery of free legal**

**services to low-income individuals: by looking to the mission statement, by-laws, use of income screening, or other factors?**

**Answer:** Recipients can look at a variety of sources to determine if an organization's or component's primary purpose is the delivery of free legal services to low-income individuals, including those listed above. Recipients may also consider an organization's articles of incorporation, public statements of purpose, and other official documentation that describes the organization's mission and purpose. Please note that the absence of income screening is not dispositive of whether an organization primarily provides free legal services to low-income individuals.

**Private Attorneys 5: Does the "primary purpose" exclusion apply only to attorneys who are handling cases, or does it also apply to attorneys engaged in PAI support activities?**

**Answer:** It applies to all attorneys providing direct delivery of legal assistance or participating in support activities that are part of a recipient's PAI program.

### **Recruitment and Training Involving Private Attorneys**

**Recruitment and Training 1: Can I count staff time spent recruiting private attorneys to participate in our PAI program toward the PAI requirement?**

**Answer:** Yes. The costs of recruiting must meet the standards set forth in 45 C.F.R. Part 1630 for allocating costs to your LSC grant.

**Recruitment and Training 2: When an attorney attends a CLE or bar association event to recruit pro bono attorneys, can the recipient allocate costs incurred for the attorney's travel to the event and attendance at the event?**

**Answer:** It depends. In order for a recipient to allocate any costs to the PAI requirement, the purpose of the event and the purpose of the attorney's attendance must be related to recruiting private attorneys to participate in the recipient's PAI program. A recipient may not allocate costs associated with attending general bar association events or CLEs to the PAI requirement simply because the recipient interacts with private attorneys. Recipients must comply with the fiscal recordkeeping requirements in 45 C.F.R. § 1614.7 and the standards for allocating costs at 45 C.F.R. Part 1630.

**Recruitment and Training 3: Would trainings provided to public defenders and district attorneys regarding the educational rights of juveniles in detention be considered PAI?**

**Answer:** No. Trainings provided by recipient staff to other attorneys to inform them about issues that may be faced by mutual clients or client populations are not PAI. Training private attorneys on a particular area of law in preparation to provide legal information and legal assistance to eligible clients at a clinic would count as PAI, because the training is necessary for the private attorneys to serve individuals attending the clinic. Trainings provided to other attorneys to raise awareness of issues that may affect their clients, such as the educational rights

of juveniles, appear to be more akin to continuing legal education that is not PAI than to engaging private attorneys in the provision of legal information and legal assistance to eligible clients.

**Recruitment and Training 4: May a recipient allocate costs associated with developing and providing training on a substantive area of law to private attorneys?**

**Answer:** Yes, generally. Training provided by the recipient to private attorneys may be counted as a support activity under 45 C.F.R. § 1614.4(b)(3) if the training is provided in furtherance of its PAI program. For example, if a recipient provides training to private attorneys on public benefits in an effort to recruit private attorneys to accept public benefits cases on referral, or to participate in a PAI clinic serving individuals with public benefits issues, the costs associated with developing and providing that training would be allocable to the PAI requirement. It is not necessary for recipients to require attorneys attending the training to take a pro bono case in order to allocate the costs to the PAI requirement.

**Recruitment and Training 5: May the recipient allocate to the PAI requirement costs associated with the training and with supervision of a private attorney who takes a case as a requirement of attending the training if the private attorney receives CLE credit for participating?**

**Answer:** Yes. For purposes of allocating costs to the PAI requirement, it does not matter whether the private attorney receives CLE credit.

**III. Law Students**

**Law Students 1: We would like to count work that law students provide toward the PAI requirement. Does their work have to be supervised by a staff attorney in order to count?**

**Answer:** Generally, yes. Recipients may involve law students in providing legal information and legal assistance to eligible clients. While staff attorneys will most often supervise the students' work, there may be instances in which a non-attorney employee of the recipient is responsible for supervising the students' work. For example, a paralegal who normally handles SSI cases may supervise a student working on a client's SSI case. The costs allocated to the PAI requirement are those invested by the program in supervising and training the law students, as well as any overhead costs incurred in supporting the students while working for the recipient.

**Law Students 2: If a law student represents a recipient's client in court pursuant to a student practice rule, can we count that case as a PAI case?**

**Answer:** No. Part 1614 allows recipients to count two types of law student activities as PAI: representation in an administrative tribunal where permitted by law, and support to the recipient's provision of legal information or delivery of legal information to eligible clients. The law student's representation may be considered support under 45 C.F.R. § 1614.4(b)(7), however, and you may allocate costs incurred in supervising and hosting the law student to the PAI requirement.

**Law Students 3:** Can amounts paid by a recipient to cover a law student’s costs and expenses be considered “actual costs and expenses” and allocated to the PAI requirement? For example, can a recipient count a stipend paid to law students to defray housing and food costs while working over the summer in a rural area toward the PAI requirement?

**Answer:** No. Section 1614.4(b)(7) prohibits allocating compensation paid to law students to the PAI requirement. LSC considers stipends to be compensation for purposes of the PAI rule.

**Law Students 4:** What if the recipient directly provides an apartment in the rural area for use by the law students?

**Answer:** The recipient’s costs associated with providing the apartment would constitute compensation to the law students. They would not be allocable to the PAI requirement.

### **Other Professionals**

**Other Professionals 1:** We want to use professionals other than lawyers in our PAI program, and we want to pay them for their services. Can we do that?

**Answer:** Yes. In order to count toward your PAI requirement, however, fees paid to other professionals may not exceed 50% of the local prevailing market rate for the service provided by the other professional. This is also true for fees paid to private attorneys.

**Other Professionals 2:** What does it mean for “other professionals” to provide support “in their areas of expertise”?

**Answer:** It depends. In the preamble to the final rule, we gave two examples of other professionals using their expertise to help recipients deliver legal information and legal assistance to eligible clients. The first example was a volunteer paralegal representing a recipient’s client in a Supplemental Security Income case. The second was a volunteer accountant providing a legal information program on the earned income tax credit. LSC intended to allow recipients to allocate costs associated with obtaining particular technical knowledge that may not be unique to lawyers and that recipients need to effectively carry out their programs.

### **Clinics**

*(Note: Questions 1-4 below and their respective answers relate to the scenario presented in Question 1.)*

**Clinics 1:** We will be working with the local bar to put on general informational workshops open to both eligible and non-eligible clients. Can we count costs incurred in setting up the workshops toward our PAI requirement?

**Answer:** Yes, if the workshops are legal information workshops. 45 C.F.R. § 1614.4(b)(4) allows recipients to provide support to courts or bar associations that are establishing legal information clinics. Once the clinic is operational, 45 C.F.R. § 1614.4(b)(5)(i) permits recipients

to allocate to the PAI requirement costs associated with their support to a PAI clinic that provides only legal information, regardless of whether the clinic screens for eligibility.

**Clinics 2: If the workshop also has a portion for specific advice, and intake eligibility is determined, can the program count as PAI cases advice given to eligible clients by the volunteer attorneys?**

**Answer:** Yes, if each individual receiving advice is screened in accordance with 45 C.F.R. § 1614.4(b)(5)(ii), determined to be eligible, accepted as a client of the recipient, and all other provisions of Chapter II of the LSC CSR Handbook are met.

**Clinics 3: If ineligible clients are also given advice by the volunteer attorneys, while it is clear those cases cannot be counted, does it affect whether we can count the time spent helping the bar establish the workshop component toward the PAI requirement?**

**Answer:** No. Recipients may allocate costs to the PAI requirement associated with helping the bar association to establish the entire workshop, regardless of whether the legal advice portion screens for eligibility. Once the clinic is operating, however, recipients must follow 45 C.F.R. § 1614.4(b)(5) in order to allocate costs incurred in supporting the clinic to the PAI requirement. In other words, under 45 C.F.R. § 1614.4(b)(5)(i), recipients may also allocate costs to the PAI requirement associated with facilitating the legal information portion of the workshop. Under 45 C.F.R. § 1614.4(b)(5)(ii), the recipient's private attorneys CANNOT provide legal assistance to unscreened or ineligible individuals as part of the recipient's support for the workshop.

**Clinics 4: Under the same scenario, would the recipient still be able to count all persons who attended the informational workshop under "other services"?**

**Answer:** Yes.

**Clinics 5: What if the above workshop is offered as just an advice clinic and eligibility is screened with both eligible and ineligible clients getting advice? How would that affect the time spent arranging the clinic? What, if any, other requirements are necessary to separate out the eligible from ineligible advice cases? If eligible and ineligible individuals are separated and the legal assistance for the eligible individuals is handled by a private attorney who handles exclusively eligible individuals, can they be counted as PAI cases and the time the program spends supervising the work on those cases be counted toward the PAI requirement?**

**Answer:** As stated above, the fact that the clinic ultimately provides legal assistance to both eligible and ineligible clients does not affect whether a recipient may help the bar association develop the workshop and allocate the costs of that help to the PAI requirement. At the current time, LSC does not have additional requirements for separating ineligible and eligible clients beyond those stated in 45 C.F.R. § 1614.4(b)(5)(ii). If the clinic provides legal assistance to both eligible and ineligible clients, the recipient may allocate costs to the PAI requirement associated with the screening and with providing legal assistance to eligible clients. The recipient may count legal assistance provided to an eligible individual as a CSR case if the individual is

screened in accordance with 45 C.F.R. § 1614.4(b)(5)(ii), determined to be eligible, accepted as a client of the recipient, and all other provisions of Chapter II of the LSC CSR Handbook are met.

**Support Provided by Private Attorneys to Recipients**

**Support 1: If a law firm provides space for a recipient’s attorney to provide training to clients, can the recipient allocate the time spent delivering the training to the PAI requirement?**

**Answer:** No. The donation of space is purely a donation to the recipient and is not PAI. The recipient may allocate costs associated with the time its staff spent working with the firm to secure space to the PAI requirement under 45 C.F.R. § 1614.4(b)(1).

**Support 2: Can the time a recipient’s staff attorney spends using a private firm’s research system be allocated to PAI?**

**Answer:** No, for the reason stated above. Again, the recipient may allocate costs associated with the time its staff spent working with the firm to obtain permission and access to its research system to the PAI requirement.

# **White House Forum**

## **Justices & Judge Panel Biographies**



**White House Forum on Increasing Access to Justice**  
**The Importance of Access to Justice to the Judiciary**  
**April 14, 2015**

**Chief Justice Tani G. Cantil-Sakauye, California Supreme Court**

Chief Justice Tani Gorre Cantil-Sakauye is the 28th chief justice of the State of California. She was sworn into office on January 3, 2011, and is the first Asian-Filipina American and the second woman to serve as the state's chief justice.

After former Governor Arnold Schwarzenegger nominated her as Chief Justice on July 22, 2010, the California State Bar Judicial Nominees Evaluation Commission rated her as exceptionally well qualified for the position. At a public hearing on August 25, 2010, she was unanimously confirmed by the Commission on Judicial Appointments, and in a general election on November 2, 2010, an overwhelming majority of voters elected her to that position.

Chief Justice Cantil-Sakauye chairs the Judicial Council of California, the administrative policymaking body of state courts, and the Commission on Judicial Appointments. She has served for more than 20 years on California appellate and trial courts, and has been appointed or elevated to higher office by three governors. In 1990, Governor George Deukmejian appointed her to the Sacramento Municipal Court and in 1997, Governor Pete Wilson elevated her to the Superior Court of Sacramento County. On the superior court, she presided over both criminal and civil assignments. In 1997, she established and presided over the first court in Sacramento dedicated solely to domestic violence issues. In addition, then-Judge Cantil-Sakauye chaired the court's criminal law committee and was a member of the presiding judge's task force on domestic violence and the Home Court committee. In 2005, Governor Schwarzenegger nominated her to the Court of Appeal, Third Appellate District.

Chief Justice Ronald M. George appointed her to the Judicial Council of California in September 2008. She has also served as chair of the council's Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch, a member of the Domestic Violence Practice and Procedure Task Force and chaired its Best Practices Domestic Violence subcommittee, vice-chair of the Executive and Planning Committee, vice-chair of the Rules and Projects Committee, co-chair of the Judicial Recruitment and Retention Working Group, and as a member of the Commission for Impartial Courts Implementation Committee.

The Chief Justice was a Special Master, selected by the Supreme Court of California to hear disciplinary proceedings before the Commission on Judicial Performance. She was president of the Anthony M. Kennedy American Inn of Court, an organization dedicated to promoting civility, ethics, and professionalism in the practice of law. And was a member of the national Conference of Chief Justices Board of Directors.

Born in 1959 in Sacramento, Chief Justice Cantil-Sakauye attended C. K. McClatchy High School (1977) and Sacramento City College (1978) before receiving her BA from the University of California, Davis, graduating with honors in 1980. After taking a year off to visit her ancestral homeland, the Philippines, the Chief Justice entered the UC Davis, Martin Luther King, Jr., School of Law in 1981. After receiving her JD in 1984, she worked as a deputy district attorney for the Sacramento County District Attorney's Office, where she prosecuted a variety of criminal offenses. In 1988, she served on the senior staff of Governor Deukmejian in two capacities: as deputy legal affairs secretary and as a deputy legislative secretary.

Chief Justice Cantil-Sakauye is a former board member of several nonprofit organizations and has been active in numerous professional community organizations, including membership in the California Judges Association, the National Asian Pacific American Bar Association, and the Sacramento Asian Bar Association, and received the Filipina of the Year Award. She is currently a member of the Board of Directors for the Conference of Chief Justices, the Board of Visitors for UC Davis, an Advisory Board member of the Sacramento Federal Judicial Library and Learning Center Foundation, an honorary member of the Foundation for Democracy and Justice, a private nonprofit organization devoted to civics education, and is actively engaged in a civic learning initiative *Your Constitution: The Power of Democracy*.

Chief Justice Cantil-Sakauye is married to Mark Sakauye, a retired police lieutenant, and they have two daughters.

### **Chief Justice Nathan L. Hecht, The Supreme Court of Texas**

Nathan L. Hecht is the 27th Chief Justice of the Supreme Court of Texas. He has been elected to the Court six times, first in 1988 as a Justice, and most recently in 2014 as Chief Justice. He is the longest-serving Member of the Court in Texas history and the senior Texas appellate judge in active service. Throughout his service on the Court, Chief Justice Hecht has overseen revisions to the rules of administration, practice, and procedure in Texas courts, and was appointed by the Chief Justice of the United States to the federal Advisory Committee on Civil Rules. Chief Justice Hecht is also active in the Court's efforts to assure that Texans living below the poverty level, as well as others with limited means, have access to basic civil legal services.

Chief Justice Hecht was appointed to the district court in 1981 and was elected to the court of appeals in 1986. Before taking the bench, he was a partner in the Locke firm in Dallas. Chief Justice Hecht holds a B.A. degree with honors in philosophy from Yale University, and a J.D. degree cum laude from the SMU School of Law, where he was a Hatton W. Sumners Scholar. He clerked for Judge Roger Robb on the U.S. Court of Appeals for the District of Columbia Circuit and was a Lieutenant in the U.S. Navy Reserve Judge Advocate General Corps.

Chief Justice Hecht is a Life Member of the American Law Institute and a member of the Texas Philosophical Society.

His term ends December 31, 2020.

### **Judge Denise Page Hood, United States District Court, Eastern District of Michigan**

DENISE PAGE HOOD, United States District Judge for the Eastern District of Michigan, was nominated by President William Jefferson Clinton and confirmed by the Senate in 1994. She became the first African American judge to join the Eastern District of Michigan bench in 13 years. Judge Hood presides over numerous criminal and civil matters, including the Dow Corning bankruptcy/breast implant case involving the \$3.1 billion Settlement Facility-Dow Corning Trust, where in excess of 145,000 claims by women have been filed over the last several years. She has served on the Michigan state court benches of the 36th District Court, Recorder's Court, and Wayne County Circuit Court, and worked as Assistant Corporation Counsel in the City of Detroit Law Department.

Judge Hood is Chair of the Pro Bono Committee of the U.S. District Court, Eastern District of Michigan and is an active member of several professional organizations: Co-Chair of the Michigan State Planning Body for legal services; the State Bar Pro Bono Initiatives Committee; and the Detroit Metropolitan Bar Association Foundation Board. She is past president of the Detroit Bar Association and the Association of Black Judges of Michigan. In addition, she serves as a volunteer in various community groups including: vice chair of the Olivet College Board of Trustees; the Harper-Hutzel Hospital Board of Trustees; and Chair of the InsideOut Literary Arts Project Board. Judge Hood has participated as a speaker or panelist for several organizations - the ABA's Section of Labor and Employment Law, Employment Rights and Responsibilities Committee, "Does Age Matter? Attitudes of Generation X and Generation Y Jurors"; the National Employment Lawyers Association, "A View From the Bench: Trial and Appellate Advocacy"; and the ABA Annual Meeting - Section of Litigation "Quiz Show." She has received numerous honors including: the Fair Housing Center of Metro Detroit's 2013 "Fair Housing Attorney Appreciation Award"; the Olivet College 2009 Leadership in Individual & Social Responsibility Award; the 2008 "Powerful Woman of Purpose" Award presented by the Rhonda Walker Foundation; the Michigan Women's Foundation's 2008 Women of Achievement and Courage Award; the 2008 Thurgood Marshall College Fund's Award of Excellence; and the 2005 Michigan Anti-Defamation League's Women of Achievement Award. Judge Hood is a graduate of Yale University and the Columbia University School of Law.

### **Chief Justice Jorge Labarga, Florida Supreme Court**

Jorge Labarga was born in Cuba in 1952. He is married to Zulma R. Labarga, and they have two daughters. He arrived in the United States at the age of 11 where he initially lived with his family in Pahokee, Florida. He graduated from Forest Hill High School in West Palm Beach in 1972 and received his B.A. (1976) and J.D. (1979) from the University of Florida.

Justice Labarga began his legal career in 1979 as an Assistant Public Defender with the Public Defender's Office in West Palm Beach, assigned to the appellate, misdemeanor and felony trial divisions. In 1982 he joined the State Attorney's Office in West Palm Beach, where he tried cases ranging from theft to homicide. In 1987 he joined the firm of Cone, Wagner, Nugent, Roth, Romano & Ericksen, P.A., and specialized in personal injury trial work. In 1992 Justice Labarga participated in founding the law firm of Roth, Duncan & Labarga, P.A., in West Palm Beach, where he continued to specialize in personal injury litigation and criminal defense.

Governor Lawton Chiles appointed Justice Labarga to the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, in 1996. In that capacity he served in the family, civil and criminal divisions. He also served as the administrative judge of the civil division.

In December 2008 Justice Labarga was appointed by Governor Charlie Crist to the Fourth District Court of Appeal. On January 1, 2009, he was appointed by Governor Crist to the Florida Supreme Court, where he presently sits as the 84th Justice to take office at the Florida Supreme Court since statehood was granted in 1845. On June 30, 2014, he was sworn in as the 56th Chief Justice of Florida -- the first person of Hispanic descent to lead the state judicial branch.

### **Chief Justice Sharon G. Lee, Tennessee Supreme Court**

Chief Justice Sharon G. Lee – Appointed to the Supreme Court of Tennessee in 2008 and retained by a majority vote of the citizens of Tennessee in August 2010 and August 2014 for an eight-year term. Elected by her colleagues on September 1, 2014, to serve as Chief Justice. Judge of the Tennessee Court of Appeals, 2004-2008. Private practice in Madisonville, 1978-2004. Numerous awards and honors, including the Chief Justice William M. Barker Equal Access to Justice Award, the University of Tennessee Alumni Professional Achievement Award, the Lizzie Crozier French Women's Leadership Award, the Woman of Achievement Award from the Girl Scout Council of the Southern Appalachians, the Knoxville YWCA Tribute to Women Award, and the Spirit of Justice Award from the East Tennessee Lawyers Association for Women. Served as adjunct faculty member of the University of Tennessee College of Law, President and a director of the East Tennessee Lawyers' Association for Women, a director of the National Association of Women Judges, and member of the Congressional Medal of Honor Knoxville Convention committee. Member of the American, Tennessee and Knoxville Bar Foundations. Serves on the University of Tennessee College of Law Dean's Circle, the Board of the Knoxville YWCA, and the Board of the East Tennessee Historical Society. B.S., University of Tennessee College of Business; J.D., University of Tennessee College of Law.

## **Chief Judge Jonathan Lippman, New York Court of Appeals**

The Honorable Jonathan Lippman is Chief Judge of the State of New York and Chief Judge of the Court of Appeals, appointed Chief Judge by Governor David A. Paterson in January 2009 and confirmed by the New York State Senate in February 2009. He presides over New York's highest court while heading a statewide court system with a budget of over \$2 billion, 3,600 state and locally paid judges, and 15,000 non-judicial employees in over 300 locations around the state. During his tenure on the Court of Appeals, Chief Judge Lippman has authored major decisions addressing constitutional, statutory, and common law issues shaping the law of New York, the contours of state government, and the lives of all New Yorkers. As the state's Chief Judge he has championed equal access to justice issues and taken an active leadership role in identifying permanent funding streams for civil legal services, strengthening the state's indigent criminal defense system, addressing the systemic causes of wrongful convictions, responding to the increased numbers of foreclosure cases entering the courts, reforming New York's juvenile justice system, and creating Human Trafficking Courts across New York State among many other areas. Furthermore, Chief Judge Lippman made New York the first state in the country to require 50 hours of law-related pro bono work prior to bar admission and established the Pro Bono Scholars programs to help alleviate the crisis in civil legal services and accelerate bar admission.

In May 2007, Judge Lippman was appointed to serve as the Presiding Justice of the Appellate Division of the Supreme Court, First Department, one of the largest and most influential appellate courts in the country by Governor Eliot Spitzer. In that capacity, he dramatically reduced the court's pending backlogs and served on the Administrative Board of the Courts, the policy and rule making body of the New York State Court System.

From January 1996 to May 2007, he served, by appointment of then Chief Judge Kaye, as the Chief Administrative Judge of all New York State Courts. As the longest-tenured Chief Administrative Judge in state history, Judge Lippman played a central role in many far-reaching reforms of New York's judiciary and its legal profession, including problem-solving community courts, drug courts, and domestic violence courts; specialized commercial and matrimonial parts; overhauling the state's jury system; opening Family Court to the public; and adopting new rules governing fiduciary appointments, mandatory continuing legal education, attorney-client fee dispute arbitration, and written letters of engagement.

Chief Judge Lippman's career in the court system spans four decades, starting as an entry level court attorney in Supreme Court and including service as a law clerk in Supreme Court and Surrogate's Court. In 1977, he became Principal Court Attorney for Supreme Court, New York County, Civil Term. In 1983, he was named the Chief Clerk and Executive Officer of that court, a position he held until 1989 when he was appointed Deputy Chief Administrator for Management of the statewide court system. In 1995, he was appointed as a Judge of the New York Court of Claims by Governor George E. Pataki, who subsequently reappointed him to a full nine-year term on that court in 1998. In 2005, he was elected as a Justice of the Supreme Court for the Ninth Judicial District. He also served as an Associate Justice of the Appellate Term, Ninth and Tenth Judicial Districts.

Judge Lippman's four decades in the courts have been marked by a deep commitment to fostering a justice system that is independent, open, accountable, and responsive to the people it serves. He has pursued these goals with a prodigious work ethic, energy, and passion. He is widely respected in legal and governmental circles for his competence, credibility, and encyclopedic knowledge of the courts.

Chief Judge Lippman is active in court improvement efforts at the national level, as a member of the Board of Directors of the State Justice Institute, Chair of the American Bar Association's Board of Elections, a member of the American Law Institute, a former member of the Board of Directors of the Conference of Chief Judges, a former President of the Conference of State Court Administrators and Vice-Chair of the Board of the National Center for State

Courts. In 2013, the American Lawyer named Chief Judge Lippman one of its Top 50 Innovators in Big Law in the Last 50 Years. In 2008, Judge Lippman received the William H. Rehnquist Award for Judicial Excellence, presented each year by the nation's Chief Justice to a state court judge who exemplifies the highest level of judicial excellence, integrity, fairness, and professional ethics. Judge Lippman was selected for his "unparalleled ability to promote and achieve reform in the state courts. His leadership in the New York courts has contributed to numerous improvements in that state's justice system and has served as an example for courts across the country." Judge Lippman lectures frequently in New York and around the country. In 2013 and 2014, he was a visiting professor of law at the University of Puerto Rico School of Law Summer Program in Barcelona, Spain (2013) and in San Juan, Puerto Rico (2014). He has published numerous articles and essays, and has received many awards and honors from the legal community.

Judge Lippman was born in New York City and raised on Manhattan's Lower East Side. He currently resides in Manhattan with his wife, Amy; they are the parents of Russell and Lindsay, who also reside in New York City, and the grandparents of Ryan and Juliette. Chief Judge Lippman is a product of the New York City public school system and received his B.A. in 1965 from New York University, from which he graduated *Phi Beta Kappa* and *cum laude*, with a major in Government and International Relations. Chief Judge Lippman received his J.D. from New York University School of Law in 1968, the same year he was admitted to the New York Bar.

### **Chief Justice John D. Minton, Jr., The Supreme Court of Kentucky**

John D. Minton Jr. became chief justice in 2008 as the recession plunged Kentucky into an economic crisis. Faced with steering the Judicial Branch through a period of financial duress, he made a commitment to invest in the people who operate the courts and in the court technology that would reduce costs and deliver better service. Six years later, his efforts have produced a stronger, leaner court system that has overhauled the salary structure of the Judicial Branch for the first time in decades and is poised to implement eFiling statewide by the end of 2015.

Under his leadership, the Administrative Office of the Courts streamlined its organizational structure and trimmed costs at all four levels of the court system for greater efficiency. His contributions to Kentucky legal procedure and public policy include the Supreme Court's adoption of the state's first uniform family law rules and the creation of the Kentucky Access to Justice Commission to improve access to civil legal aid for the poor. Chief Justice Minton has joined forces with the Executive and Legislative branches to reform Kentucky's juvenile justice system and overhaul its penal code to curb prison costs and improve public safety.

He has served on the boards of the Conference of Chief Justices and the Council of State Governments and is an alumnus of the prestigious Toll Fellowship Program. He is a graduate of the University of Kentucky College of Law and Western Kentucky University, which inducted him into the WKU Hall of Distinguished Alumni in 2013. Chief Justice Minton was in private practice and served as a Circuit Court and Court of Appeals judge before being elected to the Supreme Court in 2006.

**Chief Judge Diane P. Wood, United States Court of Appeals, Seventh Circuit**

Diane P. Wood is the Chief Judge of the United States Court of Appeals for the Seventh Circuit and a Senior Lecturer in Law at the University of Chicago Law School. Chief Judge Wood attended the University of Texas at Austin, earning her B.A. in 1971 (highest honors), and her J.D. in 1975 (Order of the Coif). After graduation from law school, she clerked for Judge Irving L. Goldberg on the U.S. Court of Appeals for the Fifth Circuit (1975-76), and for Justice Harry A. Blackmun of the U.S. Supreme Court (1976-77). She then spent a brief period at the Office of the Legal Adviser in the U.S. Department of State. In 1980, she began her career as a legal academic at Georgetown University Law Center. She moved to the University of Chicago Law School in 1981, serving as a full-time professor until 1995 and as Associate Dean from 1989 through 1992. In 1990, she was named to the Harold J. and Marion F. Green Professorship in International Legal Studies, becoming the first woman to hold a named chair at the school. From 1993 until she was appointed to the Seventh Circuit in 1995, she served as Deputy Assistant Attorney General in the Antitrust Division of the U.S. Department of Justice. Chief Judge Wood is a Fellow of the American Academy of Arts & Sciences and is on the Council of the American Law Institute. She became Chief Judge on October 1, 2013. Chief Judge Wood is married to Dr. Robert L. Sufit. She has three children and three step-children. She enjoys playing the oboe and English horn in several Chicago-area amateur orchestras.

# **Business Leaders Panel Biographies**

**White House Forum on Increasing Access to Justice**  
**Perspectives on Access to Justice from the Business Community**  
**April 14, 2015**

**Christian L. Campbell, Senior Vice President, General Counsel, Secretary and**  
**Chief Franchise Policy Officer, Yum! Brands, Inc.**

Chris Campbell is Senior Vice President, General Counsel, Secretary and Chief Franchise Policy Officer for Yum! Brands, Inc. and reports to the CEO. In this role, Campbell oversees all legal activities of the company and he is responsible for the oversight of the company's purchasing as a Director of the Company's purchasing cooperative with its franchisees, and for the administration and coordination of franchise policies. Campbell joined Yum! Brands, Inc. from Owens Corning, where he held the titles Senior Vice President and General Counsel. He holds a Bachelor and Masters degree in economics from Northwestern University (1972), and a law degree from Harvard Law School (1975). In addition, he completed the Advanced Management Program at Harvard Business School in 1992. He also serves on numerous professional boards.

**Brackett B. Denniston III, Senior Vice President , General Counsel, General Electric Company**

Brackett Denniston is Senior Vice President, Secretary and General Counsel for General Electric Company. He was named General Counsel in 2004 and Senior Vice President in December 2005. He is a director of GE Capital Corporation and the GE Foundation, and is a member of GE's Corporate Executive Council. Mr. Denniston also serves as Chairman of the Company's Policy Compliance Review Board, the governing compliance board of GE.

Mr. Denniston previously served as GE's Vice President and Senior Counsel for Litigation and Legal Policy from 1996-2004.

From 1993 to 1996, he was Chief Legal Counsel to Governor William F. Weld of Massachusetts. From 1986 to 1993 and from 1974 to 1982, Mr. Denniston was a partner, and earlier an associate, at Goodwin, Procter in Boston, where he specialized in complex litigation, securities matters and white collar crime matters.

From 1982 to 1986, Mr. Denniston was Chief of the Major Frauds Unit of the U.S. Attorney's Office, responsible for white collar crime prosecutions. He was a member of the Attorney General's White Collar Crime Operations Committee and was awarded the Department of Justice's Director's Award for Superior Performance for his role overseeing numerous successful prosecutions.

Mr. Denniston served as a law clerk to the Honorable Herbert Y. Choy of the United States Court of Appeals for the Ninth Circuit in 1973-74. He is a *summa cum laude* graduate of Kenyon College and a *magna cum laude* graduate of Harvard Law School, where he was an editor of the *Harvard Law Review*. Mr. Denniston has been active in a number of civic and charitable pursuits. He is a Trustee (and Secretary) of Kenyon College and a member of the Board of the Pro Bono Partnership. He is a former Chair of the Zoning Board of Appeals of Duxbury, Massachusetts and a former member of the Board of the American Arbitration Association.



**Ivan K. Fong, Senior Vice President, Legal Affairs and General Counsel, 3M**

Ivan K. Fong is Senior Vice President, Legal Affairs and General Counsel of the 3M Company. In that role, he oversees all legal, legal policy, compliance, and government affairs matters for the company. He was recently named one of “America’s 50 Outstanding General Counsel” by the National Law Journal, and under Ivan’s leadership, 3M’s law department was recently recognized by the same publication as “Twin Cities In - House Legal Department of the Year.” Prior to joining 3M in October 2012, Ivan served for over three years as General Counsel of the U.S. Department of Homeland Security. Before that he was Chief Legal Officer and Secretary of Cardinal Health, Inc. , where he was selected to be one of the Twenty Most Influential General Counsel” by the National Law Journal. He was also previously Senior Vice President and General Counsel of GE Vendor Financial Services; Chief Privacy Leader and Senior Counsel, Information Technology of GE; and Deputy Associate Attorney General at the U.S. Department of Justice. Ivan has also been a partner with Covington & Burling in Washington, D.C.; an adjunct professor at the Georgetown University Law Center; and a law clerk to Justice Sandra Day O’Connor of the U.S. Supreme Court. He has received, among other honors, NAPABA’s Trailblazer Award; the Justice -in-Action Award from the Asian American Legal Defense and Education Fund, Inc.; and the Spirit of Excellence Award from the ABA. Ivan holds a B.C.L. with first class honors from Oxford University, where he was a Fulbright Scholar. He received his J.D. (with distinction) from Stanford Law School, where he was president of the Stanford Law Review, and an S.B. in chemical engineering and an S.M. in chemical engineering practice from MIT. He is a registered patent attorney.

**Max A. Laun, Vice President & General Counsel, Alcoa**

Max Laun is a vice president and General Counsel for Alcoa. He oversees the day-to-day operations of Alcoa's Legal activities worldwide. Most recently he was Assistant General Counsel, Mergers and Acquisitions.

Max began his career as an attorney in Alcoa’s Legal group in Pittsburgh more than 20 years ago. He has practiced law in several areas, most notably mergers and acquisitions, energy and general commercial counseling. He has served as Alcoa's lead counsel on several highly visible mergers and acquisitions, and divestitures including the Ma’aden-Alcoa Project, the disposition of Alcoa’s Packaging business, and transactions in China, Russia, Latin America, Italy and elsewhere in Europe. Max was named Counsel/General Attorney in 1994, progressed to Senior Counsel in 2001 and then to Assistant General Counsel in 2009.

Max graduated cum laude in 1983 with a degree in History and Russian from Rice University in Houston, Texas. He served as a Fulbright Scholar in Romania from 1983-1985 studying the history of World War I. In 1988, he graduated magna cum laude from the University of Pittsburgh School of Law. While there, he served as Articles Editor of the Law Review, and was selected for membership in the Order of the Coif and the Order of the Barristers, two national, honorary scholastic societies recognizing high distinction for scholarly accomplishments and for excelling in advocacy programs.

Max serves as President of the Board of Directors of the Neighborhood Legal Services Association. He is a Trustee of the Allegheny County Bar Foundation and a member of the Advisory Board, Center for International Legal Education, University of Pittsburgh School of Law.

**Shari Redstone, Vice Chair of the Board; Director, CBS Corporation**

Shari E. Redstone is a media executive with a wide-ranging background in numerous aspects of the entertainment industry and related ventures. She is Vice Chair of the Board of Directors of Viacom Inc. and Vice Chair of the Board of CBS Corporation.

Ms. Redstone is Co-founder and Managing Partner of Advancit Capital, an investment firm launched in 2011 which focuses on early stage companies at the intersection of media, entertainment and technology. Advancit is an investor in over 50 companies including Maker Studios, Percolate, Fitstar, Newscred, Niche, Moat, Mic and more.

Since 2000, she has been President of National Amusements, one of the top 10 movie exhibitors in the United States and the parent company of Viacom and CBS. Ms. Redstone is known for her innovative approach to the moviegoing experience and has expanded the company's international footprint as well as its exploration of new technologies.

In addition, Ms. Redstone is Co-Chairman of MovieTickets.com and is a member of the Board of Directors and Executive Committee for the National Theatre Owners Association (NATO).

Ms. Redstone earned a BS from Tufts University, a JD and a Masters in Tax Law from Boston University. She practiced corporate law, estate planning and criminal law in the Boston area before joining National Amusements.

With a deep commitment to the community, Ms. Redstone is actively involved in a variety of charitable, civic, and educational organizations. She is currently a member of the Board of Directors at Combined Jewish Philanthropies and the John F. Kennedy Library Foundation. Ms. Redstone sits on the Board of Trustees at Dana Farber Cancer Institute. She served on the Board of Directors of The National Center on Addiction and Substance Abuse (CASA) at Columbia University from 2003-2012. Most recently, Ms. Redstone joined the Board and Executive Committee of "Our Time", a mass-membership organization that stands for the economic interests and political inclusion of young Americans aged 18-30. She is also on the Local Advisory Board and Executive Committee for BUILD, a non-profit organization which uses entrepreneurship to propel low income youth through high school and into college.

**Teresa Wynn Roseborough, Executive Vice President, General Counsel & Corporate Secretary,  
Home Depot**

Teresa Wynn Roseborough is responsible for all of The Home Depot's legal functions worldwide, including securities, litigation, employment, mergers and acquisitions, real estate, store operations, risk management and intellectual property. As corporate secretary, Teresa serves as a liaison between the board of directors and the company and is responsible for all corporate governance matters. She also is responsible for the company's government relations.

Before joining The Home Depot in 2011, Teresa held several positions in the legal department of MetLife, including deputy general counsel and senior chief counsel for litigation and compliance. Prior to MetLife, Teresa was a partner at Sutherland Asbill & Brennan LLP, where her practice focused on complex litigation matters at both the trial and appellate level, including before the U.S. Supreme Court.

Teresa's more than 25 years of legal experience also includes government service as deputy assistant attorney general for the U.S. Department of Justice, where she provided legal counsel to the White

House and all executive branch agencies; law clerk for Justice John Paul Stevens of the U.S. Supreme Court and Judge James Dickson Phillips of the U.S. Court of Appeals for the Fourth Circuit; an employee of the Department of Defense in West Germany.

Teresa was named one of 25 Influential Black Women in Business by The Network Journal and as one of America's top black attorneys by Black Enterprise. Her civic involvements include serving as a public member of the Administrative Conference of the U.S., a fellow of the American Academy of Appellate Lawyers, a member of the boards of directors of the Lawyers' Committee for Civil Rights and of the Board of Overseers of the RAND Corporation Institute for Civil Justice.

Teresa earned a Bachelor of Arts degree from the University of Virginia, a master's degree in education from Boston University, and a juris doctor with high honors from the University of North Carolina School of Law, where she was editor-in-chief of the Law Review.

### **John Schultz, Executive Vice President and General Counsel, Hewlett-Packard Company**

John Schultz was named Executive Vice President and General Counsel for Hewlett-Packard Company in April 2012.

Prior to his role as General Counsel, John was the Deputy General Counsel for Litigation Investigations and Global Functions where he managed all major litigation filed against HP globally, including all intellectual property, government investigations, and commercial and employment disputes.

Before joining HP in September 2008, Schultz was a partner in the litigation practice of Morgan Lewis focusing on complex litigation, primarily defending consumer class-action, fiduciary liability, and technology-related commercial litigation. He was previously at Drinker Biddle & Reath for 14 years, where he also specialized in commercial and product liability litigation.

Schultz holds a J.D. degree from the University of Pennsylvania Law School and his undergraduate degree from Albright College.

# **Technology Presentation Biographies**

**White House Forum on Increasing Access to Justice**  
**Technology Innovations in Access to Justice**  
**April 14, 2015**

**Abhijeet Chavan, Chief Technology Officer, Urban Insight**

Abhijeet Chavan is the chief technology officer of Urban Insight. He has 20 years of technology consulting experience working with government, higher education, and non-profit clients. His areas of interest include open source software, content management systems, and user experience. Abhijeet is the creator of OpenAdvocate which provides web solutions for legal services. He is also the co-founder of Planetizen, the leading urban planning news website. He previously coordinated data visualization and mapping projects at the University of Illinois at Urbana-Champaign (UIUC). Abhijeet holds Master of Architecture and Master of Landscape Architecture degrees from UIUC.

**Nan Heald, Executive Director, Pine Tree Legal Assistance, Inc.**

Nan Heald has been the Executive Director of Pine Tree Legal Assistance since 1990. Through the creative use of funding opportunities and other leveraged support, her leadership has enabled Pine Tree to strengthen and expand legal services to diverse client populations and in new areas of law, and to make justice more accessible for all the people of Maine. She has encouraged the innovative use of technology to expand access to legal information and self-help tools, an effort which began in 1996 with creation of [www.ptla.org](http://www.ptla.org), as the first legal aid website in the country to include self-help resources. Other programs created during her tenure at Pine Tree include the formation of Maine's first and only children's law project, expanded support to self-represented family law litigants and victims of domestic violence or sexual assault, and new legal representation projects addressing foreclosure, housing discrimination, and the needs of low-income taxpayers and veteran and military families. Nan currently serves on the national Legal Services Corporation Task Force on Pro Bono, the Maine Judicial Branch's Advisory Committee on Fees, and the Advisory Committee of Providers to Maine's Justice Action Group. Nan was recognized as one of the inaugural Lawdragon 500 Leading Lawyers in America (2005) and selected as a MaineBiz "Woman to Watch" in 2010. She has also been honored for her work by the Maine Veterans Coordinating Committee, the Maine Judicial Branch, and the Maine Civil Liberties Union. Nan grew up in Oquossoc in the western mountains of Maine, graduating from Smith College in 1977 and George Washington University Law School in 1980.

**Anna Hinline, Technology Coordinator, Legal Assistance of Western, New York, Inc.**

Anna Hinline is the Technology Coordinator at Legal Assistance of Western New York, Inc.® She has assisted in the administration of a variety of innovative technology related initiatives including LSC TIG funded projects. She works with the LawNY® staff to ensure that they have access to and understand the technology that is available to better serve clients and effectively collaborate with others in the organization. This is her fourth year with LawNY®. Anna has also served as the Upstate Organizational Listing Coordinator for LawHelpNY and as coordinator of the pro se divorce clinic in the Geneva office of

LawNY®. She started at LawNY® as an AmeriCorps VISTA, helping establish the Veteran Outreach Project. Anna is a 2011 graduate of William Smith College.

### **Hanna Kaufman, Law Student, Chicago Kent Law School**

Hanna Kaufman is a third-year law student at IIT Chicago-Kent College of Law, where she is one of four students in her class to receive a full merit scholarship and living stipend through the Honors Scholars Program. She will graduate in May with a J.D. and Certificate in Public Interest Law.

Hanna became interested in the legal rights of children while teaching English in her home state of Massachusetts. Since enrolling in law school, she has discovered a new passion in advocating for the legal rights of immigrants. She is particularly interested in the ways immigration laws intersect with other realms of the law, including education policy, family law, and human rights more broadly. While working as a Public Interest Law Initiative intern in the Chicago Legal Clinic's Immigration Program, Hanna worked directly with families on immigrant visa petitions, naturalization applications, and removal defense. She has advocated for unaccompanied immigrant children through her work as a guardian ad litem with the Young Center for Immigrant Children's Rights, successfully helping two teenagers to be released from detention and reunited with family members around the country. Last summer, she interned at the Department of Education, Office for Civil Rights in Washington, D.C., fighting discrimination in schools' enrollment procedures for undocumented immigrants and in their teaching methods for English language learners.

Hanna is committed to exploring new ways to expand access to justice for underserved communities. She is a Certified Mediator through the Center for Conflict Resolution in Chicago, and she has mediated small claims, landlord-tenant, and custody/visitation disputes among unrepresented litigants in court. She has also designed online guided interviews to help people without lawyers in both California and Kansas to fill out legal forms and advocate for themselves in family law matters.

Hanna earned her B.A. in Sociology from Brown University and her M.Ed. in Teaching English from Lesley University.

### **Angela Tripp, Project Manager, Michigan Legal Help Program**

Angela Tripp is the Project Manager of the Michigan Legal Help (MLH) Program. MLH is responsible for the statewide website for self-represented litigants (MichiganLegalHelp.org) and seven affiliated Self-Help Centers around the state. In 2014, over 461,000 people visited the MLH website and nearly 50,000 people used its resources to complete legal forms. Ms. Tripp has led the development and growth of MLH from its inception in 2011. Ms. Tripp is also the Co-Director of the Michigan Poverty Law Program, the state support program in Michigan.

Ms. Tripp holds a JD from Northeastern University School of Law in Boston and a BA from the University of Cincinnati. Before leading MLH and the Michigan Poverty Law Program, she worked with Legal Services of South Central Michigan starting in 2005, first as a staff attorney and then as a managing attorney in the Lansing field office.