



Legal Aid of Arkansas
Board of Directors Meeting
Saturday, June 29, 2019
9:00 A.M.

Durand Center
303 North Main Street
Arvest Bank Board Room
Harrison, AR 72301

Legal Aid of Arkansas Board Packet-Table of Contents

Page 1	Cover Sheet
Page 2	Table of Contents
Page 3	Meeting Announcement Letter
Page 4	Conference Call Instructions
Page 5	Meeting Location Directions
Page 6	Agenda
Page 7-10	New Board Member-Board Roster
Page 11-18	March 30, 2019 Board Meeting Minutes
Page 19-23	Financial Report
Page 24	Parenthood Leave
Page 25	Consumer Work Group Report
Page 26-27	Adverse Childhood Experiences Brochure
Page 28-31	Directors Report
Page 32-33	Case Statistical Report
Page 34-41	New Office Space Lease
Page 42	HUD Check Presentation
Page 43-46	Disaster Grant Paperwork
Page 47-54	Media Coverage Samples
Page 55-57	Event Flyers
Page 58	Student Bar Check Presentation
Page 59-60	Office Directory and Organizational Chart
Page 61	List of Arkansas Largest Law Firms
Attachment A	LSC Act and CFR §1600-§1641
Attachment B	LSC Competitive Funding Application less attachments

Full Packet and updates are published at <http://arlegalaid.org/board-packet.html>

**LEGAL AID of ARKANSAS**
Equal Access to Justice
Fighting Poverty, Maintaining Dignity, Assuring Justice

June 20, 2019

RE: Board of Directors Meeting

Dear Board Member:

The Legal Aid of Arkansas Board of Directors will meet at 9:00 a.m. Saturday, June 29th at the Durand Center at North Arkansas College, Arvest Bank Board Room, 303 N. Main Street, Harrison, AR 72601. Board members may also participate by conference call using the attached instructions. Lodging on Friday night is provided for those that must travel an hour or more. Please contact me if you wish me to take care of lodging arrangements on your behalf.

In an effort to reduce the cost of postage and the amount of paper used to distribute materials for discussion at the Board meeting, the documents have been posted online and are being mailed only to Board members who might not have internet access or have requested they be mailed. To access the online documents, go to <http://arlegalaid.org/board-packet.html>.

If you have any questions or prefer to have a packet mailed to you, please contact me by phone at 1-800-967-9224, x4311, or by e-mail at eking@arlegalaid.org.

Sincerely,

Elizabeth King
Administrative Assistant/HR Manager

TOLL FREE
1-800-967-9224

TELEPHONE/FAX
1-870-972-9224

HELPLINE
1-800-952-9243

www.arlegalaid.org

Arkansas Children's Hospital
1 Children's Way, Slot 695
Little Rock, AR 72202-3500
501-978-6479 – Fax

Harrison
205 West Stephenson
Harrison, AR 72601

Helena-West Helena
622 Pecan
Helena, AR 72342

Jonesboro
714 South Main Street
Jonesboro, AR 72401

Little Rock
711 Towne Oaks Drive
Little Rock, AR 72227

Newport
202 Walnut Street
Newport, AR 72112

Springdale
1200 Henryetta
Springdale, AR 72762

West Memphis
310 Mid Continent Plaza
Suite 420
West Memphis, AR 72301

PARTICIPATING BY CONFERENCE CALL/GO TO WEBINAR

Dial 1-866-625-9936

Enter Guest Pin 21154265#

Following are some guidelines to make a conference call run smoothly:

- **Call in/log in a little early.** Call in a few minutes prior to the scheduled conference call time to eliminate a last minute rush.
- **Identify yourself.** Make sure to state your name clearly before speaking or voting since the meeting minutes must identify speakers.
- **Speak loudly and clearly.** You will need to speak more loudly than you would in a regular person-to-person conversation.
- **Request the Board Chair's acknowledgement.** To ensure that you are heard when you have something to say, ask the Board Chair for the floor. After you are acknowledged, you can be sure that you are being heard.
- **If you can't hear someone, speak up and let the Board Chair know.**

The board packet has been posted online. To access the online documents, go to <http://arlegalaid.org/board-packet.html> .

DIRECTIONS

Lodging will be at the [Quality Inn](#), 1210 US 62/65 N, Harrison, Arkansas. The board meeting will be at the [Durand Center](#) (303 North Main Street) in the Arvest Bank Board Room.



PROPOSED AGENDA
BOARD OF DIRECTORS MEETING
June 29, 2019

1. Call to Order (Board Chair or Designee)
2. Acceptance of New Board Member (Board Chair or Designee)
3. Approval of Minutes of March 30, 2019 Meeting (Board Chair or Designee)
4. Financial Report (Mr. Bowman)
5. Board Training
 - a. Reading Financial Statements (Mr. Bowman)
 - b. LSC Act, LSC Regulations (Mr. Richardson)
6. Update to Personnel Policy Manual (Mr. Richardson)
7. Update of Client Trust Account (Ms. King)
8. Consumer Group Update (Ms. Purtle)
9. ACE's 101 (Ms. Gratil)
10. Director's Report (Mr. Richardson)
11. Old/New Business (Board Chair or Designee)
12. Adjournment (Board Chair or Designee)



Lee Richardson <lrichardson@arlegalaid.org>

Potential Legal Aid Board Member

Charlie Morris <cmorris@nadcinc.org>

Fri, May 24, 2019 at 5:11 PM

To: Lee Richardson <lrichardson@arlegalaid.org>

Cc: Sherry Vest <svest@nadcinc.org>

Lee,

On behalf of Northcentral Arkansas Development Council, Inc. (NADC) we would like to submit the name of Mihailo Albertson from Calico Rock (Izard County) as a nominee to the Legal Aid of Arkansas Board of Directors from our area. Mr. Albertson come highly recommended from NADC's Izard County Coordinator Sherry Vest who has helped him with NADC services. She said he is good listener and a good person and thinks he would be a great fit on your board. Mr. Albertson phone number is 870-291-4199.

We hope Mr. Albertson fulfills the qualifications and be an asset to the board. If you need any assistance from us at anytime, always feel free to contact me.

Best regards,

Charlie

Charlie Morris
NADC Executive Director
[Quoted text hidden]

**LEGAL AID OF ARKANSAS
BOARD OF DIRECTORS
2019**

	POSITIONS HELD	APPOINTING ORGANIZATION	TERM BEGINS	TERM ENDS
Mihailo Albertson 6109 Gorby Rd. Calico Rock, AR 72519 870-291-4199 mihailo@usa.com	Client Advisory Committee	NADC Charlie Morris 550 S. 9 th St. Batesville, AR 72501 870-793-5765	01/01/19	12/31/21
Vilma Asencio 2301 Anna Street Springdale, AR 72762 479-200-6978 Vasencio@outlook.com	Client Advisory Committee/ Executive Committee	Worker's Justice Center Nelson Escobar 207 W. Emma Street Springdale, AR 72764 479-750-8015 479-750-1194 – Fax Nelson.wjc@gmail.com	01/01/18	12/31/20
Fuller Bumpers Attorney at Law P.O. Box 2496 Batesville, AR 72503 870-793-7556 fbumpers@earthlink.net		Independence County Bar Association Barrett S. Moore, President P.O. Box 2135 Batesville, AR 72501	01/01/18	12/31/20
Neal Burns 200 S. Pruett St. Paragould, AR 72450 870-239-2225 887-239-2780 – Fax b.neal.burns@gmail.com		Greene County Bar Association Brad Broadaway, President 924 West Court Street Paragould, AR 72450 870-236-9800 870-236-4840 – Fax	01/01/19	12/31/21
Lori Chumbler Associate General Counsel Legal Administration & External Relations 702 S.W. 8th Street Bentonville, AR 72716-0215 lori.chumbler@walmartlegal.com	Board Chair/All Committees	Benton County Bar Association Tina Adcock Thomas, President 121 S. Main St. Bentonville, AR 72712 479-273-2777 479-273-1214 – Fax	01/01/16	12/31/18
Niki Cung Kutak Rock, LLP 234 East Millsap Road, Suite 400 Fayetteville, AR 72703-4099 479-973-4200 x1933 479-973-0007 – Fax 479-445-3770 – Cell niki.cung@kutakrock.com	Executive Committee; Search/Appointments/ Nominations Committee	Washington County Bar Association Tyler Benson, President	01/01/17	12/31/19
Steven B. Davis Davis Law Firm P.O. Box 1696 Harrison, AR 72602-1696 870-741-4646 870-741-2500 – Fax davislawfirm1@outlook.com		Boone-Newton Bar Association Brad Brown, President 212 N. Main Street, Suite B P.O. Box 298 Harrison, AR 72602	01/01/18	12/31/20

**LEGAL AID OF ARKANSAS
BOARD OF DIRECTORS
2019**

	POSITIONS HELD	APPOINTING ORGANIZATION	TERM BEGINS	TERM ENDS
Pamela Haun Attorney at Law P.O. Box 1700 Jonesboro, AR 72403 870-931-1700 870-931-1800 – Fax phaun@barrettdeacon.com	Vice Chair; Executive Committee; Audit/Finance Committee (Chair)	Craighead County Bar Association Carla Rogers Nadzam, President	01/01/17	12/31/19
Helen Jenkins 389 N. Hollywood H7 Blytheville, AR 72315 870-740-3945 annjen@yahoo.com	Client Advisory Committee; Audit/Finance Committee; Search/Appointments/ Nominations Committee	CASA of the 2 nd Judicial District 511 Union Street, Suite 327 Jonesboro, AR 72401 870-935-1099	01/01/17	12/31/19
Kachia Phillips 1216 N. B Street Rogers, AR 72756 479-316-5569 Kachiaphillips74@gmail.com	Client Advisory Committee	Goodwill Industries of Arkansas, Inc. Marty Hausam, State Reentry Program's Manager 479-841-1200 Mhausam@Goodwillar.org	01/01/18	12/31/20
Donna Price Attorney at Law P.O. Box 430 Clinton, AR 72031 501-745-2283 donnapriceattorney@gmail.com		Van Buren County Bar Association Ralph Blagg, President	01/01/17	12/31/19
Val P. Price Attorney at Law P.O. Box 3072 Jonesboro, AR 72403-3072 870-934-9400 870-934-9400 - Fax valandleah@yahoo.com	Personnel/Client Grievance Committee (Chair);	Craighead County Bar Association Carla Rogers Nadzam, President	01/01/19	12/31/21
Faye Reed Attorney at Law 110 Oakland Ave. Helena-West Helena, AR 72342 870-817-0235 870-995-3198 – Cell frimprove@gmail.com	Personnel/Client Grievance Committee;	Phillips County Bar Association Mr. Phillip Allen P.O. Box 2602 West Helena, AR 72390	01/01/16	12/31/18
Annie B. Smith Assistant Professor of Law U of A School of Law Law School Legal Clinic 1045 W. Maple Street Waterman Hall – Room 107 Fayetteville, Arkansas 72701 479-575-3056 856-979-6321 – Cell abs006@uark.edu	Treasurer; Audit/Finance Committee	University of Arkansas School of Law Stacey Leeds, Dean Robert A. Leflar Law Center Fayetteville, AR 72701-1201 479-575-4504 479-575-3320 - Fax	01/01/18	12/31/20

**LEGAL AID OF ARKANSAS
BOARD OF DIRECTORS
2019**

	POSITIONS HELD	APPOINTING ORGANIZATION	TERM BEGINS	TERM ENDS
Ashlie Thacker 3608 Shelby Drive Paragould, AR 72450 870-565-0445 ashliedthacker08@gmail.com	Search./Appointments/ Nominations Committee (Chair)/Client Advisory Committee	Family Crisis Center of Northeast Arkansas P.O. Box 721 Jonesboro, AR72403 870-972-9575	01/01/19	12/31/21
Curtis Walker P.O. Box 627 Blytheville, AR 72316-0627 curtisjerome@sbcglobal.net		Arkansas Bar Association 2224 Cottondale Lane Little Rock, AR 72202 501-375-4606 501-375-4901 – Fax	01/01/18	12/31/20
Demetre Walker 902 N Larkspur Lane Fayetteville, AR 72704 479-587-3068 - Work 479-790-0440 - Cell	Secretary, Client Advisory Group; Personnel/Client Grievance Committee	Arkansas Support Network Lynn Donald, Program Director 6836 Isaac's Orchard Road Springdale, AR 72762 479-927-4100 479-927-4101 – Fax	01/01/17	12/31/19
Rene Ward PO Box 3031 Forrest City, AR 72336 870-261-4309 grward72335@yahoo.com	Client Advisory Committee; Search/Appointments/ Nominations Committee	East Arkansas Area Agency on Aging Monte Callicott, Executive Director 2005 E. Highland Dr. PO Box 5035 Jonesboro, AR 72403-5035 870-930-2202	01/01/17	12/31/19
Tim Watson, Jr. 209 Walnut Street Newport, AR 72112 Phone: 870-523-8420 Fax: 870-523-4639 timwatsonjrlaw@yahoo.com		Jackson County Bar Association James McLarty Attorney at Law 114 Main Street Newport, AR 72112 870-523-2403 870-523-3630 - Fax	01/01/17	12/31/19
Kevin Watts 218 N Terry Street Wynne, AR 72396 870-318-1690		Cross County Bar Association Kevin Watts, President	01/01/19	12/31/21
Ron Wilson P.O. Box 1299 West Memphis, AR 72303-1299 870-735-2940 870-732-0174 – Fax esquirewilson@yahoo.com	Executive Committee	Crittenden County Bar Association Bart Ziegenhorn, President 106 Dover Road, Suite B P.O. Box 830 West Memphis, AR 72303 870-732-9100	01/01/18	12/31/20

**LEGAL AID OF ARKANSAS
BOARD OF DIRECTOR'S MEETING
March 30, 2019**

The Board of Directors of Legal Aid of Arkansas met at 9:00 a.m. Saturday, March 30, 2019, at the Legal Aid of Arkansas West Memphis office.

The formal agenda was as follows:

1. Call to Order (Board Chair or Designee)
2. Search, Appointments, Nominations Committee (Ms. Thacker)
 - i. Acceptance of New Board Members
 - ii. Election of Officers
 - iii. Committee Assignments
3. Approval of Minutes of December 8, 2018 Meeting (Board Chair or Designee)
4. 2018 Independent Audit Report (Yoakum, Lovell & Company)
5. Financial Report (Mr. Bowman)
6. 2019 Financial Eligibility Guidelines (Mr. Richardson)
7. Financial Accounts Update (Ms. King, Mr. Bowman)
8. Economic Justice Group Update (Mr. De Liban)
9. Director's Report (Mr. Richardson)
10. Executive Session (Board Chair or Designee)
11. Personnel Committee Report (Mr. Price)
12. Time and Location of June 2019 Board Meeting (Board Chair or Designee)
13. Old/New Business (Board Chair or Designee)
14. Adjournment (Board Chair or Designee)

Present in person were Steve Davis, Val Price, Rene Ward, and Kevin Watts. Present via conference call were Vilma Ascencio, Neal Burns, Lori Chumbler, Niki Cung, Pamela Haun, Kachia Phillips, Annie Smith, Ashlie Thacker, Demetre Walker, and Ron Wilson. Legal Aid staff in attendance in person included: Lee Richardson, Executive Director; Lela Davison, Staff Attorney; Kevin DeLiban, Staff Attorney/Economic Justice Work Group Leader and Helen Gratil, Director of Mission Engagement/ Chief Information Officer/ Director of AmeriCorps Program. Staff present via conference call included Elizabeth King, HR Manager/Admin Asst; David Bowman, Fiscal Officer; and Lynda Ware, Paralegal. Also in attendance via conference call was Zeke Jones of Yoakum, Lovell, and Co.

Acting Board Chair Val Price called the meeting to order. He welcomed everyone and moved to item two on the agenda, Search, Appointments, Nominations Committee.

Mr. Richardson stated the Search, Appointments; Nominations Committee met on January 24, 2019. He stated that the committee first received the Diversity report as presented by the Executive Director. He stated that we review this each year and it pretty much shows that our numbers are consistent with the people we serve. He stated that for example, 62% of our board members are Caucasian, 28% African American, our clients served numbers are closer to 69% and 22%, and those numbers are consistent with the number of people we should be serving within the service area. He stated that staff

and board diversity are consistent with those numbers as well so overall diversity numbers look good. Mr. Richardson further stated that the committee discussed the seven open board positions and who would be willing to serve another term and where we needed to seek new appointments. He stated that the committee suggested a slate of officers to present to the board today and that would be as follows:

Lori Chumbler – Chair
Pamela Haun – Vice Chair
Annie Smith – Treasurer
Demetre Walker – Secretary

Mr. Richardson stated that we have reappointments of Ms. Thacker, Mr. Price, Ms. Reed, Ms. Chumbler and Mr. Burns.

Mr. Richardson stated that the Cross County Bar Association appointed Kevin Watts and he asked Mr. Watts to introduce himself.

Mr. Watts stated that he is from Wynne and has a practice that includes mostly bankruptcy, estate planning and family Law. He stated that he is also the new Deputy Prosecutor in Poinsett County.

Mr. Richardson thanked Mr. Watts for his willingness to serve on the Board of Directors.

Mr. Richardson stated the committee would present the appointment of Mr. Watts and the reappointments of Ms. Thacker, Mr. Price, Ms. Reed, Ms. Chumbler and Mr. Burns with one vacant position being a client eligible position from North Central Arkansas that he is working to fill.

A motion was made by Steve Davis, seconded by Rene Ward to approve the board member appointments as presented. The motion carried with none opposed.

Mr. Richardson stated that the committee would submit the proposed slate of officers but would also open it up to any other nominations.

Mr. Price asked for a motion to accept the proposed slate of officers as presented by the committee.

A motion was made by Steve Davis, seconded by Ashlie Thacker to approve the proposed slate of officers. Mr. Price stated that the motion had been moved and seconded and asked for any further discussion or proposals for any officers besides the slate that has been proposed. Hearing none, he called for the vote. The motion carried with none opposed.

Mr. Richardson stated that the proposed committee assignments are as follows:

Executive Committee

Officers plus Niki Cung and Ron Wilson

Personnel/Client Grievance Committee

Lori Chumbler, Val Price, Demetre Walker, Faye Reed (Val as Chair of Committee)

Search/Appointments/Nominations

Ashlie Thacker, Niki Cung, Lori Chumbler, Helen Jenkins (Ashlie as Chair of Committee)

Client Advisory Committee

Client Members and Board Chair

Audit/Finance Committee

Lori Chumbler, Pam Haun, Helen Jenkins, Annie Smith (Pamela as Chair of Committee)

Standing Delivery of Legal Services Committee

Lori Chumber, Steve Davis, Ms. Phillips and Ms. Smith

Safety Committee

Lori Chumbler, Steve Davis, Val Price, Annie Smith, Ashlie Thacker and Ron Wilson (Annie as Chair of Committee)

A motion was made by Lori Chumbler, seconded by Steve Davis to approve the committee assignments. The motion carried with none opposed.

Hearing no further discussion Mr. Price moved to item three on the agenda, Approval of Minutes of December 8, 2018 Meeting. He asked for questions regarding the minutes. Hearing none, he called for a motion.

A motion was made by Niki Cung, seconded by Lori Chumbler to approve the minutes of the December 8, 2018 meeting. The motion carried with none opposed.

Mr. Price moved to item four on the agenda, 2018 Independent Audit Report.

Mr. Jones of Yoakum, Lovell & Co. reviewed the 2018 Audit and Form 990. He asked for questions.

Mr. Richardson inquired in regard to the Form 990, stating the in the past you could see on the 990 what percentage of our expenses were admin costs and he did not see that.

Mr. Jones stated that if you will look on part nine that breaks out the total expenses and management expenses.

Mr. Wilson inquired as to why the donated services are deducted from the revenue and expenses.

Mr. Jones responded that on the 990 the IRS for some reason does not want that included as a revenue or an expense so it gets backed off. He stated he did not know the reasoning it is just what the IRS wants.

Mr. Wilson inquired as to what the regulation is that governs it. Mr. Jones stated that he would look into it.

Hearing no further questions, Mr. Price called for a motion.

A motion was made by Kevin Watts, seconded by Lori Chumbler to approve the 2018 Independent Audit Report. The motion carried with none opposed.

Mr. Price thanked Mr. Jones and moved to item five on the agenda, Financial Report.

Mr. Bowman stated that we are looking at January 1st – February 28th. He stated that in looking at revenues from January – February we ended up with revenue at \$536,000 and expenses \$511,000 with our expenses being under the revenue at \$25,000. He pointed out that we have received a little bit of additional funding from Legal Services Corporation of about \$17,480 for an appropriation increase and that would take us up to \$1,478,000 for our budget. He stated that we also received a letter on January 29th to increase IOLTA funding from \$20,000 to \$77,200. He further stated that we did just get word from the Administration of Justice funds that we will get a decrease which stated March 1st and will continue through the end of the year and that will be a decrease of almost \$51,000 for 2018.

Mr. Price inquired as to why there was going to be a decrease. Mr. Richardson stated that the fund is not flush with cash and there are certain protected entities in the fund. He stated that those would be a justice building and construction fund, a court reporter fund, auditor of the state to fund trial court administrative assistants and a district judge's coordinator so those cannot be touched. He stated that if the fund is flush the way all of the allocations should go it is at \$39,920,000 and they projected this year it is going to be at \$28,334,000 so we are getting about 55% of what we should be getting because the income in the fund is down. He stated that the income that in theory is supporting Legal Aid is not down, it is consistent so if not for the shenanigans that have gone on we would still be getting 100% and we would get \$384,000. He stated that back when the fund had a lot of money in it somehow the judges went in and convinced the governor's office and the Administrative Office of the Courts that they could take money out of the fund without having an actual funding stream coming into the fund and that is where about 13 million goes. He stated that whenever the fund starting losing money the judges went back in and said we need protections we need 100% regardless of what everybody else gets and that is why we are down to 55%. He stated that there is a plethora of other agencies that are also being funded at 55% and the current reductions will cost us about \$90,000 through the end of 2020.

Mr. Bowman stated that in looking at expenses, the personnel costs have increased about 16% which is roughly about \$58,000 from this time in 2018 and we have increased 5-6 staff members as well. He stated that some of that could be timing as we had some that terminated in 2018 that we had to replace. He stated that one other item is the property acquisitions, we had not budgeted any for 2019 but we have expensed almost \$5,000, which was a down payment for work that is being done in the Jonesboro office to replace all the windows there.

Mr. Richardson stated that there will be another \$5,000 after the work was completed in March and the windows were starting to fall out so the work had to be done. He stated that we primarily ear marked the money received on Giving Tuesday to do the office maintenance in Jonesboro.

Mr. Bowman stated that on space rent, we do have two staff now in the Helena office, so we have increased the office there, so that is one additional item there. Mr. Richardson stated that there is three when you count Ms. Howard.

Mr. Bowman stated that average monthly expense is around \$255,000 and this is a small increase over our December we were roughly at \$240,000. He further stated that is all he has at this point.

Mr. Richardson stated that you would see 3.63 average monthly expenses in unrestricted carryover reserve. He stated that the target was always to get to three months and we are well above that, so we are comfortable being able to operate in the event of any government shutdowns or anything of that nature.

Mr. Bowman moved to the Balance Sheet. He stated that there is \$1,480,000 in cash accounts He stated that notes payable for the Springdale Building is down to \$170,751 and excess revenue over expenses is \$25,437, and this does tie to our year to date expenses.

He asked for questions. Hearing none, Mr. Price called for a motion.

Rene Ward made the motion, seconded by Kevin Watts to approve the Financial Report. The motion carried with none opposed.

Mr. Price moved to item six on the agenda, 2019 Financial Eligibility Guidelines.

Mr. Richardson reviewed the 2019 Income and Eligibility Guidelines as set by the Department of Health and Human Services.

Mr. Price asked for questions, hearing none he called for a motion.

Kevin Watts so moved, seconded by Niki Cung to approve the 2019 Financial Eligibility Guidelines. The motion carried with none opposed.

Mr. Price moved to item seven on the agenda, Financial Accounts Update.

Mr. Richardson stated that we need to add a few signers to the First Security account in Jonesboro for emergency checks written out of the Jonesboro office. The changes are as follows:

First Security

Add:

- Helen Gratil
- Trevor Hawkins
- Jordan Meador

Mr. Price asked for questions, hearing none he called for a motion.

Niki Cung so moved, seconded by Lori Chumbler to approve the Financial Account Updates as presented. The motion carried with none opposed.

Mr. Price moved to item eight on the agenda, Economic Just Group Update.

Mr. De Liban reported on the happenings and recent victories of the Economic Justice Work Group.

Mr. Price moved to item nine on the agenda, Director's Report.

Mr. Richardson stated that the Legal Service Corporation funding amount solidified after the last board meeting and our funding amount is \$1,478,027 which is down around \$90,000. He stated that we lost a substantial amount of money based on the census estimates and the Center for Arkansas Legal Services gained a bit of money. He stated that Legal Services Corporation received a funding increase of \$5,000,000, but we have less Legal Services Corporation money this year than we had last year. He further stated that the Legal Services Corporation is going to be making a program quality visit in October. He stated that this would start on October 21st and they will send a team of five or six staff members and contractors. He stated that they would want to talk to several board members during that week so if you can make yourself available, please do, and we will be setting schedules probably early to mid-summer for that visit. Mr. Richardson stated that there would be a Legal Services Corporation board meeting in Little Rock in January 2020, the first time they have had their regional meeting in Arkansas since maybe 2006. He stated that we would be participating in that meeting.

Mr. Richardson stated that we had Spring Break on the Road to Justice and it was highly successful. He stated that Ms. Gratil was there and asked her to give a brief overview of how the event went.

Ms. Gratil stated that Spring Break Road to Justice went very well, it was March 18th – 21st and there were three wills clinics organized by Ms. Johnson, our Pro Bono Manager. She stated the clinics were in Flippin, Brockwell and Mountain View. She stated that they served 74 individuals and produced 207 documents. She further stated that four students from Bowen attended, three from Fayetteville and we had a fourth Fayetteville student that could not attend at the last minute. She stated that the work will be featured in the Arkansas Lawyer spring edition.

Mr. Richardson asked Ms. Gratil to speak on social media reach and how it has developed over the last year.

Ms. Gratil stated that we have been utilizing social media as a tool for our overall mission engagement strategies since November 2018 and we have been quite successful. She stated that as a unit of measurement we now have 2,516 likes on Facebook compared to last year we increased our rate by 524 likes which are 44 likes per month, and we are now at the rate of 175 likes per month.

Mr. Richardson stated that we have several social media posts, such as the Arkansas Works posts we have seen the number of views go up to the tens of thousands. He stated that we think this has been a good method of reaching out and informing and educating about Legal Aid of Arkansas and the services we offer.

Mr. Richardson moved to contracts and fundraising. The Legal Services Corporation invited us to submit an application for a Private Attorney Involvement Innovation Fund Transformation grant that will bring in a couple hundred thousand dollar a year for 24 months. He said this would help our Pro Bono program grow, as we dropped low on numbers going from around 600 cases closed per year to just barely closing over 300 this past year. He stated that the United Way of Northwest Arkansas had invited us to submit a full application for funding for an Adverse Childhood Experiences project in Benton, Washington and Madison country. He stated that we hope to submit that by April 10th. He stated that this would be one attorney position and we currently have an attorney position funded by them but they have changed their area of focus, and they have taken away the area of focus that currently funds us. He stated that our HUD grant for Fair Housing outreach and education expires March 31st and we have applied for an Enforcement grant, but HUD has not made a decision so those grants are pending.

He stated there are several other grants pending and several we are writing right now. He stated that we are constantly looking for funding that is consistent with our mission and priorities. We feel that all the grants we are currently seeking fall into what we need to be doing to help Arkansans live a better life.

He stated that the case statistical report is attached. We are satisfied with the numbers at the end of the year as we had an increase of nearly 3% in the number of cases closed and we were able to do more systemic work. He stated that our extended services case closure rate is higher than the national average and a lot of that is Order of Protection cases, but everything is looking good in that regard.

Mr. Richardson stated we originally voted on the June board meeting to be June 22nd in Harrison. He stated that internally we have determined that the 29th would be a better date to separate it a bit from the Annual Bar meeting and it will still not conflict with the 4th of July holiday. He stated that we would like input on moving the meeting from the 22nd to the 29th and the meeting will still be in Harrison.

Mr. Price asked for any questions, hearing none he called for a motion.

Kevin Watts moved, Niki Cung seconded to move the June board meeting from June 22nd to June 29th. The motion carried with none opposed.

Mr. Richardson stated that he wanted to remind the board that the September meeting is September 10th in Jonesboro and the December meeting is December 7th in Springdale.

Mr. Price moved to item ten on the agenda, Executive Session.

The Board moved into Executive Session.

The Board reconvened following the Executive Session.

Mr. Price stated that items eleven and twelve are completed so that he would move to item thirteen, Old Business.

Mr. Davis inquired if the Safety Committee work was complete.

Mr. Richardson stated that a lot of the Safety Committee work is complete, but he would not say we are through with it as we are still looking at panic buttons and pricing and video cameras in a couple of larger office reception areas. He stated that we have not come up with a solution in Harrison. He stated that substantially most of the things that the committee set out to do have been completed or accomplished. He stated there are still a few more things that the committee may need to come back, hold another meeting, and get an update.

Mr. Wilson stated that Mr. Richardson's pay increase needed to be voted on in open session.

Mr. Price stated that a motion made in Executive session that Mr. Richardson receive a 3% raise that would bring his salary to \$108,925. He stated that he would make the motion in open session to approve the 3% pay increase, seconded by Kevin Watts.

Mr. Price stated that on behalf of the Board and Personnel Committee, they are very pleased with the progress and direction of the organization and feel that a lot of that has to do with Mr. Richardson's leadership.

The motion carried with none opposed.

Mr. Price called for New Business.

Hearing no other business, Mr. Price moved to item fourteen on the agenda, Adjournment.

Kevin Watts moved, seconded by Lori Chumbler to adjourn the meeting. The motion carried with none opposed.

LEGAL AID OF ARKANSAS
 ACTUAL REVENUE & EXPENDITURES
 FOR THE PERIOD JANUARY 1 THRU May 31, 2019

Line#	Revenue:	2019 Approved Budget	MAY 2019 Actual	Dec 2018 Actual	Dec 2017 Actual
1	LSC BASIC GRANT (FY19 Appropriation Increases-est \$17,480)	\$1,460,547.00	\$617,307.00	\$1,557,645.00	\$1,469,531.00
2	Ark Adm Justice Funds (FY19 Appropriation decrease-\$51,326)	\$250,213.86	\$80,196.71	\$250,213.80	\$250,213.80
3	STOP/VAWA/VOCA	\$229,000.00	\$78,071.60	\$149,055.50	\$116,555.02
4	HUD	\$93,750.00	\$40,231.00	\$84,769.00	\$0.00
5	IOLTA (rec'd letter 01/29/2019 for \$77,200)	\$20,000.00	\$77,200.00	\$20,350.00	\$0.00
6	IOLTA-Housing Foreclosure	\$262,378.00	\$109,324.55	\$262,378.92	\$282,743.83
7	AATJF-Fair Housing Special Grant - 2018/2019 (2019-5/months)	\$42,916.67	\$42,916.67	\$85,520.83	\$35,612.50
8	IRS-LITC	\$60,000.00	\$19,306.27	\$60,000.00	\$60,000.00
34	National Health Law Program	\$45,833.33	\$32,500.00	\$58,333.33	\$4,166.67
9	MLP-EJW&ACH	\$145,000.00	\$67,299.80	\$156,915.72	\$132,870.41
10	Georgetown University	\$0.00	\$0.00	\$0.00	\$16,666.67
11	ST VINCENT	\$0.00	\$0.00	\$33,333.33	\$31,666.67
12	Equal Justice Works-CVJC (2018-2020)	\$58,092.00	\$13,087.29	\$31,084.90	\$0.00
13	Equal Justice Works-AMC	\$0.00	\$0.00	\$24,045.60	\$30,002.25
14	Americorps (Includes CALS Funds and Summer Project)	\$0.00	\$0.00	\$0.00	\$57,447.69
16	AR CARE	\$0.00	\$0.00	\$0.00	\$0.00
17	Affordable Care Act	\$0.00	\$0.00	\$0.00	\$0.00
18	Modest Means	\$0.00	\$0.00	\$0.00	\$225.00
19	AAA-White River	\$2,000.00	\$0.00	\$2,443.75	\$2,262.50
20	AAA-East Arkansas	\$35,000.00	\$11,850.00	\$35,000.00	\$35,000.00
21	AAA NWA	\$9,560.50	\$2,618.75	\$10,500.00	\$10,836.75
22	UW-Boone Cnty	\$0.00	\$0.00	\$2,500.00	\$2,000.00
23	UW-Bly	\$3,000.00	\$1,800.00	\$3,000.00	\$3,000.00
24	UW-NW Ark	\$37,500.00	\$34,965.50	\$78,810.87	\$87,815.58
25	UW-NE Ark	\$13,125.00	\$5,468.75	\$15,909.00	\$15,909.00
26	UW-NCA (Independence Cnty)	\$4,000.00	\$0.00	\$3,000.00	\$4,000.00
27	UW-Mid South	\$3,010.00	\$2,500.00	\$4,005.00	\$3,915.63
28	ADHS-DAAS	\$0.00	\$0.00	\$0.00	\$10,528.89
29	Washington County Law Library	\$12,500.00	\$6,000.00	\$14,400.00	\$12,500.04
30	Other- Ark Adv/CALS/Natural Wonders/Urban League/Kezhaya/reimb	\$27,727.00	\$27,363.50	\$49,741.95	\$27,322.41
31	Donations	\$100,000.00	\$9,236.30	\$131,400.60	\$146,640.67
32	Interest income	\$16,200.00	\$13,014.73	\$13,344.28	\$4,450.27
33	Attorney fees	\$4,000.00	\$4,429.28	\$3,700.00	\$80,082.32
34	RACES-NEA LawDay & NWA Judicata	\$0.00	\$0.00	\$4,671.35	\$0.00
35	Revenue (excludes carryOver)	\$2,935,353.36	\$1,296,687.70	\$3,146,072.73	\$2,933,965.57

LEGAL AID OF ARKANSAS
ACTUAL REVENUE & EXPENDITURES
FOR THE PERIOD JANUARY 1 THRU May 31, 2019

36	Expenses:	2019 Approved Budget	MAY 2019 Actual	Dec 2018 Actual	Dec 2017 Actual
37	Total-Attny(excludes AMC&EJW; Includes ACH/EJW-MLP)	\$1,665,297.76	\$678,107.98	\$1,481,155.01	\$1,247,427.62
38	Total-Paralegals	\$216,470.00	\$101,989.88	\$205,722.64	\$246,107.17
39	Total-Other	\$416,092.29	\$153,255.59	\$336,556.85	\$279,755.70
40	Total-Americorps	\$0.00	\$0.00	\$0.00	\$67,599.02
41	Total-EJW (Living Allow&Suppl Benefits)	\$0.00	\$0.00	\$34,359.96	\$43,271.06
42	Benefits Budgeted (includes Americorp & EJW benefits)	\$413,614.81	\$189,089.22	\$355,883.38	\$318,250.58
43	Grand Total of All Payroll	\$2,711,474.86	\$1,122,442.67	\$2,413,677.84	\$2,202,411.15
44					
45	Space Rent (HA \$675/\$725, WM\$600, Helena \$275/470)	\$42,900.00	\$16,650.02	\$23,372.62	\$19,950.00
46	Space Other Expenses	\$39,300.00	\$10,100.35	\$28,264.58	\$27,718.97
47	Equipment Rental&Maint	\$21,000.00	\$6,677.94	\$19,156.34	\$20,881.03
48	Office Supplies	\$57,500.00	\$22,523.53	\$65,020.35	\$37,371.02
49	Postage /Printing	\$16,000.00	\$5,167.72	\$13,688.64	\$15,419.05
50	Communication Expense	\$45,000.00	\$23,084.70	\$49,440.69	\$53,317.93
51	Travel Board Members & Mtg Supplies	\$4,500.00	\$380.30	\$1,978.76	\$1,854.84
52	Travel Staff & Others	\$67,000.00	\$32,421.15	\$76,592.46	\$72,297.79
53	Training-Board Members	\$3,500.00	\$0.00	\$0.00	\$1,920.76
54	Training-Staff & Other	\$47,500.00	\$15,780.15	\$58,682.04	\$40,044.25
55	Library	\$15,000.00	\$4,850.01	\$16,781.32	\$15,205.22
56	Insurance-Prof Liab, Prop & Gen Liab	\$29,541.96	\$23,411.24	\$24,777.89	\$27,365.51
57	Dues & fees	\$18,500.00	\$11,053.50	\$16,752.00	\$17,050.50
58	Audit	\$15,000.00	\$12,700.00	\$15,000.00	\$15,000.00
59	Litigation	\$10,000.00	\$693.78	\$6,881.29	\$7,332.83
60	Advertising	\$4,500.00	\$500.28	\$8,168.59	\$8,313.67
61	Property Acquisition	\$0.00	\$24,749.64	\$0.00	\$0.00
62	Contract Services to Applicant to ALSP				
63	Depreciation (no affect on Cash)	\$14,931.67	\$14,717.59	\$14,931.67	\$14,465.18
64	Other (Contract Labor)	\$9,700.00	\$8,134.25	\$10,917.05	\$10,575.90
65	RACE-NEA LawDay	\$0.00	\$0.00	\$3,084.97	\$0.00
66	TIG(Ben&Wages included above in Payroll Exp)				
67	SPG Bldg Loan Pmts (interest Exp)	\$9,396.00	\$4,752.00	\$9,414.82	\$9,396.57
68					
69	Total Non-Personnel Exp	\$470,769.63	\$238,348.15	\$462,906.08	\$415,481.02
70					
71	TOTAL EXPENSES	\$3,182,244.49	\$1,360,790.82	\$2,876,583.92	\$2,617,892.17
72					
73	Revenues over(under)Exp(excluding carryover)	(\$246,891.13)	(\$64,103.12)	\$269,488.81	\$316,073.40
74	Net Assets Beginning of Year (includes PROPERTY & Carryover/Reserves)	1,347,212.71	1,347,212.71	1,077,723.90	\$761,650.50
75	Net Assets at End of Year(includes PROPERTY&carryover/Reserves)	1,100,321.58	1,283,109.59	1,347,212.71	1,077,723.90
76	Monthly Average Expenses >>>>>>>>>	\$265,187.04	\$272,158.16	\$239,715.33	\$218,157.68
77	Average Monthly Exp in Unrestricted CarryOver(Reserves)	4.28	4.17	3.87	3.17

Reconciliation to Cougar:					
	Excess Revenue Over (under) Exp - per this Rpt		(\$64,103.12)	\$269,488.81	\$316,073.40
	Cash used for Non-Exp Item- Prin Loan Pmts-Spg Bld - Less Depr Exp		0.00	0.00	0.00
	Reconciliation Amt-Excess Rev Over (Under) Exp		(\$64,103.12)	\$269,488.81	\$316,073.40
	From Cougar Mnt Software Rpt		27,443.88	269,488.81	316,073.40
	Reconciled to Cougar Mntn or Difference Amt>>>>		(\$64,103.12)	(\$0.00)	(\$0.00)

LEGAL AID OF ARKANSAS, INC (LEGFND)

Detailed Balance Sheet

As of: 5/31/2019

6/6/2019 5:15:10 PM

All Funds

Page 1

Assets

10-00-100	CASH - BANK OF FAYETTEVILLE	208,127.56
10-00-103	FIRST SECURITY BANK MM	127,422.49
10-00-105	CASH-IN-BANK - B.O.F. LITC	20.00
10-00-110	CLIENTS TRUST BANK ACCTS	5,650.43
10-00-111	CASH-FIRST SECURITY BANK-GENERAL	1,051,092.13
10-00-140	PREPAID EXPENSES	1,635.00
10-00-150	LAND	8,000.00
10-00-151	BUILDINGS	443,268.98
10-00-155	FURNITURE & EQUIPMENT	122,201.89
10-00-170	LEASEHOLD IMPROVEMENTS	83,747.81
10-00-180	ACCUMULATED DEPRECIATION	(409,532.22)

Total Assets

\$1,641,634.07

=====

Liabilities

10-00-200	ACCOUNTS PAYABLE	1,654.77
10-00-204	CLIENTS TRUST	5,650.43
10-00-205	ACCRUED PAYROLL	83,049.38
10-00-210	UNITED WAY W/H	512.50
10-00-213	GROUP INS. W/H & PAYABLE	(9,933.72)
10-00-214	RETIREMENT W/H & PAYABLE	8,728.22
10-00-220	ACCRUED LEAVE	84,047.17
10-00-240	DEFERRED SUPPORT	121,712.00
10-00-245	NOTE PAYABLE-FIRST SECURITY	63,103.73

Total Liabilities

\$358,524.48

Net Assets

10-00-301	NET ASSETS - LSC	119,882.29
10-00-303	Net Assets-Property Restricted	24,472.18
10-00-304	NET ASSETS-DONATIONS RESERVE	150,000.00
10-00-305	NET ASSETS-DONATIONS-Unrestricted	584,299.40
10-00-306	Net Assets-Property Unrestricted	64,620.24
10-00-320	NET ASSETS- ARK FILING FEES	400,813.50
10-00-326	NET ASSETS-OTHER	3,125.10
	Excess Revenues Over Expenses	(64,103.12)

Total Net Assets

\$1,283,109.59

Total Liabilities and Net Worth

\$1,641,634.07

=====

LEGAL AID OF ARKANSAS
 2019 PROJECTED REVENUE & EXPENDITURES
 w/ 2019 Approved Budget

Line#	Revenue:	2019 Approved	2019 Projected
1	LSC BASIC GRANT (FY19 Appropriation Increases-est \$17,480)	\$1,460,547.00	\$1,478,027.00
2	Ark Adm Justice Funds (FY19 Appropriation decrease-\$51,326)	\$250,213.86	\$198,887.86
3	HUD	\$93,750.00	\$375,145.52
4	STOP/VAWA/VOCA	\$229,000.00	\$229,000.00
5	IRS-LITC	\$60,000.00	\$64,000.00
6	IOLTA (rec'd letter 01/29/2019 for \$77,200)	\$20,000.00	\$77,200.00
7	IOLTA-Housing Foreclosure	\$262,378.00	\$262,378.00
8	AATJF-Fair Housing Special Grant - 2018/2019 (2019-5/months)	\$42,916.67	\$42,916.67
9	MLP-EJW & ACH	\$145,000.00	\$145,000.00
10	Equal Justice Works CVJC May 2018-July 2020)	\$58,092.00	\$58,092.00
11	AAA-White River	\$2,000.00	\$2,000.00
12	AAA-East Arkansas	\$35,000.00	\$35,000.00
13	AAA NWA	\$9,560.50	\$9,560.50
14	UW-Boone Cnty	\$0.00	\$0.00
15	UW-Bly	\$3,000.00	\$3,000.00
16	UW-NW Ark	\$37,500.00	\$37,500.00
17	UW-NE Ark	\$13,125.00	\$13,125.00
18	UW-Independence Cnty	\$4,000.00	\$4,000.00
19	UW-Mid South	\$3,010.00	\$3,010.00
20	Donations	\$100,000.00	\$100,000.00
21	Interest income	\$16,200.00	\$16,200.00
22	Attorney fees	\$4,000.00	\$4,000.00
23	Other - Ark Adv-Child/Families, CALS, Tyson, EJW-AMC,N Wonders	\$27,727.00	\$49,411.12
24	Washington County Law Library	\$12,500.00	\$12,500.00
25	National Health Law Program	\$45,833.33	\$45,833.33
26	Race	\$0.00	\$0.00
26	Midwest Legal Disaster Coordination Project	\$0.00	\$161,000.00
27	Rural Communities Opioid Response (Planning)	\$0.00	\$200,000.00
28	Revenue (excludes carryOver)	\$2,935,353.36	\$3,626,787.00

LEGAL AID OF ARKANSAS
 2019 PROJECTED REVENUE & EXPENDITURES
 w/ 2019 Approved Budget

	Expenses:	2019 Approved	2019 Projected
29	Total-Attny plus Bonus (\$7,100)	\$1,665,297.76	\$1,798,970.98
30	Total-Paralegals plus Bonus (\$1,675)	\$216,470.00	\$292,151.39
31	Total-Other plus Bonus (\$2,312.50)	\$416,092.29	\$404,968.05
32	Benefits Budgeted (includes Americorp & EJW benefits)	\$413,614.81	\$449,296.27
32	Grand Total of All Payroll	\$2,711,474.86	\$2,945,386.69
33	Space Rent (HA \$725, WM\$1,200, Helena \$450, CALS*\$100, VISTA-\$1,100)	\$42,900.00	\$49,400.00
34	Space Other Expenses (WM moving expense)	\$39,300.00	\$39,300.00
35	Equipment Rental&Maint	\$21,000.00	\$21,000.00
36	Office Supplies (Vista-Cost Sharing)	\$57,500.00	\$57,500.00
37	Postage /Printing	\$16,000.00	\$16,000.00
38	Communication Expense	\$45,000.00	\$45,000.00
39	Travel Board Members & Mtg Supplies	\$4,500.00	\$4,500.00
40	Travel Staff & Others	\$67,000.00	\$67,000.00
41	Training-Board Members	\$3,500.00	\$3,500.00
42	Training-Staff & Other	\$47,500.00	\$47,500.00
43	Library	\$15,000.00	\$15,000.00
44	Insurance-Prof Liab, Prop & Gen Liab	\$29,541.96	\$29,541.96
45	Dues & fees	\$18,500.00	\$18,500.00
46	Audit	\$15,000.00	\$15,000.00
47	Litigation	\$10,000.00	\$10,000.00
48	Advertising (includes 50th Ann Celebration in 2017)	\$4,500.00	\$4,500.00
49	Property Acquisition	\$0.00	\$24,749.00
50	Contract Services to Applicant to ALSP	\$0.00	\$0.00
51	Depreciation (no affect on Cash)	\$14,931.67	\$14,931.67
52	Other (Contract Labor)	\$9,700.00	\$9,700.00
53	RACE-NEA LawDay	\$0.00	\$0.00
54	TIG	\$0.00	\$0.00
55	SPG Bldg Loan Pmts (interest Exp)	\$9,396.00	\$10,296.00
56	Total Non-Personnel Exp	\$470,769.63	\$502,918.63
57	TOTAL EXPENSES	\$3,182,244.49	\$3,448,305.32
58	Revenues over(under)Exp(excluding carryover)	(\$246,891.13)	\$178,481.68
59	Net Assets Beginning of Year (includes PROPERTY & Carryover/Reserves)	1,347,212.71	1,347,212.71
60	Net Assets at End of Year (includes PROPERTY & carryover/Reserves)	1,100,321.58	1,525,694.39
61	Monthly Average Expenses >>>>>>>>>	\$265,187.04	\$287,358.78
62	Avr Monthly Exp in Unrestricted CarryOver(Reserves)	4.28	3.95

5050 Parenthood Leave

- a. Eligible full-time female employees will be granted up to 4 weeks (20 working days) of paid leave after the birth of the employee's child or placement of an adoptive child in the employee's home upon three months notice of intent. Eligible full-time male employees will be granted up to 2 weeks (10 working days) of paid leave after the birth of the employee's child or placement of an adoptive child in the employee's home upon three months notice of intent. A stated intent to return to work after the parenthood leave is prerequisite to the granting of parenthood leave.
- b. Upon three months notice of intent, an employee shall be entitled to a leave of absence of up to six months without pay for the sole purpose of remaining at home to care for a new child. In addition to the parenthood leave set forth above, a female employee can apply accrued annual leave or sick leave until such leave time is exhausted and receive a salary. A male employee can use annual leave, but not sick leave to the leave of absence, except as specified in Section E.2.b.
- c. For all parenthood leave, a date specific shall be set for the employee's return to employment. Failure to return on the date arranged is a forfeiture of the employee's right to employment.
- d. Legal Aid of Arkansas will continue to pay the employer portion of health and dental premiums for the employee for up to six months as long as the employee has stated an intent to return. Should the employee not return they will repay Legal Aid of Arkansas for the employer portion of insurance from the date the paid leave expired.
- e. Parenthood leave will only be granted to an employee who has successfully served the six months probationary period of employment with Legal Aid of Arkansas. Following the exercise of the parenthood leave, an employee shall not be entitled to a subsequent period until he/she has returned to employment for a continuous period of at least 12 months.

RACIAL JUSTICE STATEMENT

The Consumer Protection Practice Group at Legal Aid of Arkansas stands for Racial Justice

As consumer advocates for communities of color and non-English speaking communities, we stand for racial justice in the marketplace and against unfounded bias whether implicit or explicit.

As part of our practice we address the role that race plays in the consumer marketplace. Treating African Americans, communities of color, and limited English speaking communities differently by failing to allow these communities the financial benefit of their hard work is wrong and often illegal. The consumer protection work group at Legal Aid of Arkansas is committed to genuine and sustainable community partnerships aimed at stopping discriminatory sales and post-sale practices in the marketplace.

WAYS OUR COMMUNITY CAN HELP

To increase the chances for resilience, our entire community must be involved. These are parents, educators, child advocates, counselors, clinicians and other medical staff, faith and other community leaders who can take steps to help children overcome ACEs. Please call for more information about how you or your organization can help!



HOW WE CAN HELP

Legal Aid of Arkansas can help you prevent stress in your child's life from causing serious physical, mental and emotional issues by helping you with the following legal issues:

- Domestic Violence
- Minor Guardianships
- Housing Issues
- Special Education
- School Discipline
- Adult Guardianships
- Child Custody Issues
- SNAP Benefits
- SSI/SSDI
- Unemployment
- Wills
- TEA
- Trusts
- And more!

CONTACT US



For legal help, please call:
1-800-952-9243

For questions about ACEs and how to help, please call:

Andrea Hope Howard
ACEs Project Coordinator
Legal Aid of Arkansas
870-972-9224 Ext. 1303



Legal Aid of Arkansas
714 S Main St
Jonesboro, AR 72401



www.arlegalaid.org



**Learn about Adverse
Childhood Experiences**
also known as

ACES



WHAT ARE ACEs?

ACEs are Adverse Childhood Experiences, or incidents that upset the safe, nurturing environments children need to thrive. If we experience severe tough times, or trauma, as kids, it can impact our lives as adults in many different ways. Trauma happens when stress becomes overwhelming and toxic to a child's growing brain, either from one serious event, or if stress is constant over time. This toxic stress may prevent a child from learning and can result in long-term health and behavioral problems. A high ACEs score can lead to significant legal issues in adulthood.

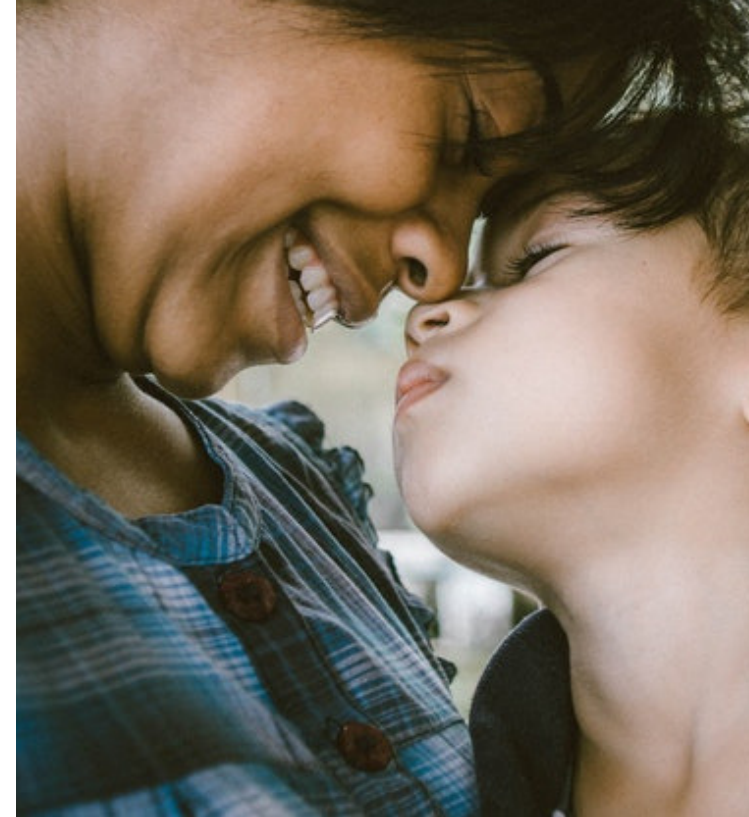
TYPES OF ACEs

- Emotional, physical, and/or sexual abuse
- Emotional or physical neglect
- Mother treated violently
- Bullying
- Parental separation or divorce
- Household substance abuse
- Household mental illness
- Incarcerated household member
- Witness brother or sister being abused

ADULT HEALTH & BEHAVIORAL PROBLEMS



- Health**
 - Obesity
 - Diabetes
 - Depression
 - Suicide Attempts
 - Heart Disease
 - Cancer
- Behavioral**
 - Lack of Physical Activity
 - Smoking
 - Alcoholism
 - Drug Use
 - Missed Work



BECOMING RESILIENT

Resilience is the ability to return to being healthy and hopeful after bad things happen. Parents and caregivers can help children become resilient when:

- Learning about ACEs
- Talking and listening to their child
- Creating spaces where children feel safe emotionally and physically
- Helping children talk about feelings and express themselves through art, dance, music, and play

DIRECTOR'S REPORT

June 19, 2019

National Developments

In mid-May the House Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies released its FY 2020 funding bill. The bill provides \$550 million for LSC, an increase of \$135 million over LSC's current funding. This would be a 33.64% increase for basic field grants. In real dollars it would mean approximately \$497,208 in additional funding for Legal Aid of Arkansas. Our allocation for 2019 is \$1,478,027.

President Trump's 2020 budget again threatened to eliminate LSC, which is likely the best thing that could have happened. This spurred extraordinary non-partisan support in Congress and while the increase mentioned above may be overly optimistic, there will likely be a funding increase.

There has still been no turnover on the LSC board, though the president has nominated 7 people in 2019, four democrats and three republicans. The 11 member board must have six members of the party in power and five of the minority party. There will likely be some transition on the board by the end of the year.

Programs around the country are becoming less and less dependent on LSC funding, now providing only 34% of overall funding, down from 88% in 1980. At Legal Aid LSC funding is 49.7% of our overall budget, down from 61.7% a decade ago and 86.2% in 2005. We have also built our cash reserves from slightly less than \$12,000 in 2005 to \$1,470,000 at the end of April, a 122,400% increase.

LSC will make a Program Quality Visit to Legal Aid the week of October 21st. A team of LSC staff and contractors will spend the week in Arkansas, visit all of our offices, and ultimately write a report on their findings. The intent of the visit is to assess the quality of our delivery of legal services. The visiting team will wish to speak with as many board members as possible, so please plan accordingly. We will be in touch mid to late summer to start scheduling blocks of times for them to visit with some of you. The final report from the 2012 visit can be found at [this link](#).

Program and Statewide Developments

We have closed 1,774 cases in 2019 as of May 31st, a 17.3% increase over the same time period last year. A [case statistical report](#) by county is attached. There are 2,389 cases open as of that date, compared to 2,256 on the same date in 2018.

We had three new grants go live in June. The most significant is our Private Enforcement Grant received from HUD for our Fair Housing Project which provides almost \$900,000 over three years. This resulted in us opening a new Fair Housing office at 711 Towne Oaks Drive for \$1,200 monthly in year one, with a 3% increase in year two (\$1,236) and year three (\$1,273). The [lease and a property flyer](#) is attached. As you can see in the staff changes section below, we are gearing up to be fully operational in the office by June 17th. This is a statewide project not confined to our traditional 31 county service area. Picture of grant award check presentation from [Anna Maria Farias, Assistant Secretary at HUD](#), with [Jason Auer](#), [Pam Abrams](#), and [Lee Richardson](#) is attached.

We received a \$200,000 grant from the Health Resources and Services Administration to launch a Rural Communities Opioid Response project in Northeast Arkansas. This is a one-year planning grant that we are confident will lead to funding to provide direct legal services to those suffering from opioid addiction and their families.

We received a \$161,000 Midwest Legal Disaster Coordination grant from LSC to engage in disaster preparedness work throughout Arkansas over the next 30 months. The special grant award acceptance agreement and supporting documentation is attached.

We just completed our LSC competitive grant application, which is over 300 pages in total. Attached you will find a redacted version that will give you the primary information. If you want to view any of the listed attachments, please let us know and we will get them to you.

We have filed some significant litigation since the last board meeting, the most significant of which is a complaint in Federal Court on behalf of a Craighead County client. This suit seeks damages from four members of DHS leadership individually for routinely terminating recipient's benefits despite request that the benefits continue during the appeal process, in violation of Medicaid regulations and the 14th Amendment. We allege that the individuals sued were "deliberately indifferent" to DHS unconstitutional practices. The lawsuit can be found [here](#), and a story about the filing from the Arkansas Democrat-Gazette is attached.

Also attached is a great story from Non-Profit Quarterly, Saving Medicaid Expansion: An Arkansas Nonprofit Legal Aid Story, focused on our work in Gresham v. Azar, which is currently on appeal by the Department of Justice after our win in DC District Court.

We are consistently hosting clinics for clients throughout the service area. Attached are three flyers for clinics in June. Most of these clinics involved both Legal Aid staff and pro bono volunteers. We would love to have board participation at these events in the future.

Case Examples

Case and community engagement examples for this meetings packet are part of the LSC grant submission that is attached. You will find them on pages 39-40, 48-49, and 54 of the attachment.

Grants/Contracts/Fundraising

Since the last board meeting, we received the three favorable grant decisions listed above under program developments.

Still pending is our application to the LSC Private Attorney Involvement Innovation Fund. We are asking for **\$232,433** to fund two additional positions focused on pro bono engagement for 24 months and should hear a decision by the end of June.

Our Children Living in Poverty funding from the United Way of Northwest Arkansas has been continued for the period July, 2019 to June, 2021. We will receive **\$50,000** a year for the next two years.

This grant funds most of a staff attorney position in Northwest Arkansas that will focus on Adverse Childhood Experiences and give priority to families with children age 5 and under.

After a year hiatus, we received **\$2,000** in funding from the United Way of Boone County for 2020. Other United Way grant applications pending include North Central Arkansas (**\$4,000** request), Mid-South (**\$5,000**), and Greater Blytheville (**\$3,000** request).

We have special projects funding request submitted to the Arkansas Access to Justice Foundation of approximately **\$100,000** to support our Fair Housing Project and an Elder Abuse attorney in North Central Arkansas. Still pending is a grant from the Administration for Community Living Legal Assistance Enhancement Program (**\$365,000** over three years), and the renewal of two VOCA grants (almost **\$300,000** for one year).

The Student Bar Association at the University of Arkansas presented Legal Aid with a generous donation of **\$7,500**, the proceeds of the 2019 faculty auction. Picture of Regional Manager Ashley Norman receiving the check is attached.

We will receive Bank of America Special Project funding of approximately \$102,290 to support our Fair Housing and Minority Victims of Crimes project based on a vote by the Access to Justice Foundation on June 7, 2019. This money will be for the period June 1, 2019 to May 31, 2020.

Arkansas Children's Hospital has earmarked \$58,000 for the lead attorney position at the MLP for FY20 which runs July 1, 2019 to June 30, 2020. This is about \$15,000 shy of the total cost for the position and the ACH Foundation is looking for ways to raise this balance. The paralegal position at ACH is funded for this same period for \$52,000. Approximately \$45,000 of the \$110,000 total is coming from [Circle of Friends](#) donations.

Since increasing our development staff by adding Helen Gratil and Director of Mission Engagement and capacity building VISTA members/other staff, we have over \$700,000 in new money come into Legal Aid in just over six months. Development is a team effort at Legal Aid, with each work group bringing in funds over the past year. While this is great news, it is straining our capacity to manage grants and space for new employees to sit and work is non-existent in Jonesboro, Springdale, West Memphis, and Little Rock.

Staff Changes

We have had four staff members separate during the past three months. Kristen Callahan, VOCA attorney in our Helena office, departed for a public defenders job in Texarkana. Aaron Anderson, part time legal support specialists in Springdale, has joined the Peace Corps and with an assignment in China. We have so many new hires/summer interns, and I have put them in the chart form below. Attorney Scot Allison in our Economic Justice group and stationed in Springdale resigned this month to pursue other career opportunities. We are currently advertising that position. Attorney Jennifer Reynolds at our Arkansas Children's Hospital office was not retained.

New Staff

5-Jun-19

Last Name	First Name	Office	Work Group	Education	Experience	Start Date	Position
Alcantara	Fernanda	Springdale	Domestic Violence	Arkansas	Internship-CLIP	6/10/2019	Intern
Bowden	Cameron	Little Rock	Housing	Bowen Law-Lyon College	Private Practice-1year	6/17/2019	Staff Attorney-Fair Housing
Carter	Jessica	Springdale	Administration	Texas Tech	Legal Support-6 years	5/31/2019	Legal Support Specialists
Conrad	Caleb	Children's Hosp.	MLP	Bowen Law-Arkansas Memphis Law-U. of the South	Legal Intern	6/3/2019	Law Clerk
Egan	Alexandria	West Memphis	Economic Justice	South	Law Clerk	5/20/2019	Law Clerk
Graham	Lauren	Jonesboro	Domestic Violence	St. Louis University- Arkansas Tech Thurgood Marshall School of Law-Texas Arlington	Public Defender-2 years	5/28/2019	Staff Attorney
Hammond	BreeAnn	Jonesboro	Domestic Violence	Memphis Law-U. of the South	Law Clerk	6/24/2019	Extern
Harshbarger	Alexis	West Memphis	ACES	Arkansas Law- Undergraduate	Law Clerk	6/3/2019	Rural Summer Legal Corps
Hayn	Mara	Springdale	Economic Justice	Undergraduate	Law Clerk	5/20/2019	Law Clerk
Hemann	Elizabeth	Springdale	Capacity Building	College of Wooster Arkansas Law- Undergraduate	Superior Court Intern	6/10/2019	Statewide Task Force VISTA
Koch	Sarah	Springdale	Capacity Building	Undergraduate	Administration	5/20/2019	Technology Developer
Mayes	Grace	Springdale	Administration	John Brown Southern Illinois Masters- University of the Ozarks	Administrative Intern Development Director- Legal Assistant	5/31/2019	Reception
O'Neil	Morgan	Springdale	Capacity Building	University of the Ozarks	Legal Assistant	6/3/2019	Communications Specialists
Ostowari	Nimi	Little Rock	Housing	UCLA Brooklyn Law School- Manhattan College	Internship Private Practice-7 years	6/17/2019	Fair Housing Investigator
Rieber	Kate	West Memphis	Housing	Manhattan College	Domestic Violence Advocate	6/17/2019	Staff Attorney
Sanders	Beth	Jonesboro	Capacity Building	Southern Arkansas	Advocate	5/13/2019	Communications VISTA
Sims	Karsen	Springdale	Capacity Building	Arkansas	Reception at Legal Aid	6/10/2019	Development VISTA
Weems	Jonathan	West Memphis- Helena	Consumer	Southern Illinois Law- Memphis PHD-Henderson	Private Practice/AG-3 years	6/17/2019	Staff Attorney-VOCA

Full Time-Red
 Part Time-Brown
 Summer Paid-Black/Bold
 Summer Volunteer-Black

A current office directory and organizational chart are attached.

Non-priority, non-emergency case types- None

Case Statistical Report By County
Cases Closed 1/1/2019 to 5/31/2019

County of Residence	01-09	10-19	20-29	30-39	40-49	50-59	60-69	70-79	80-89	90-99	Totals
	Consumer	Education	Employment	Family	Juvenile	Health	Housing	Income Maintenance	Individual Rights	Misc	
Arkansas	1	0	0	2	1	0	0	0	0	0	4
Baxter	5	0	2	14	2	1	4	3	1	4	36
Benton	17	0	18	95	11	8	18	8	2	7	184
Boone	13	0	0	31	7	1	10	1	0	5	68
Bradley	0	0	0	1	0	0	0	0	0	0	1
Carroll	6	0	4	12	4	0	6	2	0	1	35
Clark	0	0	0	1	0	0	0	0	0	0	1
Clay	0	0	0	22	3	1	0	0	0	0	26
Cleburne	2	1	2	10	1	2	4	0	0	0	22
Columbia	0	0	0	1	0	0	0	0	0	0	1
Craighead	18	2	4	133	14	5	37	9	8	24	254
Crawford	1	0	0	3	0	0	0	0	0	0	4
Crittenden	8	1	5	46	3	2	24	10	11	8	118
Cross	2	0	0	7	1	2	0	0	1	0	13
Desha	0	0	0	0	0	0	0	1	0	0	1
Faulkner	0	1	2	0	2	0	1	1	1	0	8
Fulton	0	0	0	3	0	0	2	0	0	0	5
Garland	1	0	1	1	0	0	0	1	0	0	4
Grant	0	1	0	0	0	0	0	0	1	0	2
Greene	2	0	2	53	2	3	7	4	1	2	76
Hot Spring	0	0	0	1	0	0	0	0	0	0	1
Independence	5	1	2	43	2	1	2	2	0	1	59
Izard	1	0	0	6	1	0	3	0	0	2	13
Jackson	1	0	2	28	1	1	4	2	2	1	42
Jefferson	0	0	0	0	0	2	0	1	0	0	3
Johnson	0	0	0	0	1	0	0	0	0	0	1
Lawrence	1	0	2	19	4	2	2	1	0	2	33
Lee	0	0	0	9	0	0	1	2	0	0	12
Lonoke	0	1	0	1	2	0	0	0	0	0	4
Madison	1	0	2	11	0	0	2	0	0	1	17
Marion	1	0	0	6	0	1	4	0	0	0	12
Miller	1	0	0	0	0	0	0	0	0	0	1
Mississippi	5	2	4	40	3	2	11	2	4	1	74
Monroe	1	1	0	13	1	0	3	0	3	3	25
Newton	0	0	1	5	2	0	0	1	0	0	9

Case Statistical Report By County
Cases Closed 1/1/2019 to 5/31/2019

Not in Arkansas	1	0	2	20	4	0	1	0	7	3	38
Ouachita	0	0	0	0	1	0	0	0	0	0	1
Outside of Service Area	0	0	0	0	0	0	0	0	1	0	1
Phillips	6	0	1	16	3	0	4	8	0	3	41
Poinsett	5	0	0	33	3	0	1	4	2	0	48
Pope	1	0	0	0	0	0	0	0	0	0	1
Pulaski	0	10	1	8	6	3	6	1	2	1	38
Randolph	0	0	0	16	6	0	1	1	0	0	24
Saint Francis	6	1	1	23	0	3	6	1	2	4	47
Saline	0	0	0	1	0	0	0	0	0	0	1
Searcy	1	0	1	8	2	1	0	1	0	0	14
Sebastian	0	1	0	1	0	0	0	1	0	0	3
Sharp	0	0	0	22	1	1	1	0	0	0	25
Stone	0	0	0	4	2	2	0	2	0	2	12
Union	1	0	1	0	0	0	0	0	0	0	2
Van Buren	3	0	1	9	1	1	3	0	0	0	18
Washington	37	1	34	96	13	9	51	10	12	13	276
White	0	0	0	2	0	0	0	0	0	0	2
Woodruff	0	0	0	6	1	0	1	0	3	1	12
Yell	0	0	1	0	0	0	0	0	0	0	1
Totals	154	24	96	882	111	54	220	80	64	89	1,774

711 Towne Oaks Drive, Little Rock, AR

For Lease

Office Space Available



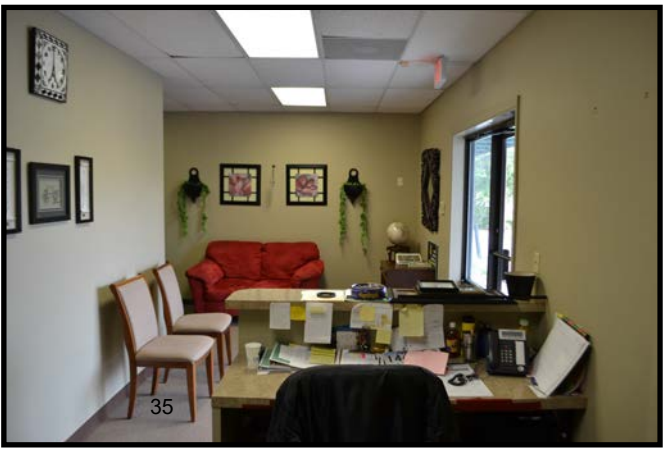
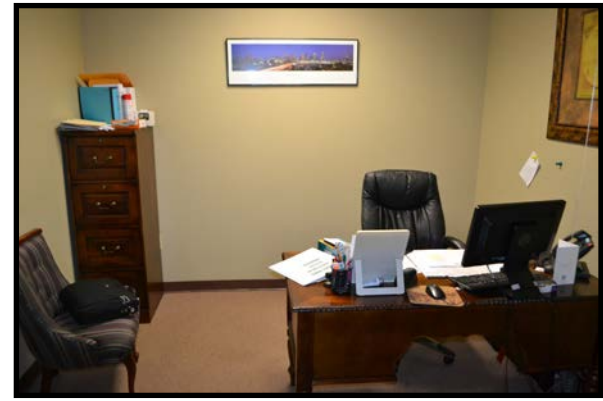
- \$12.00/SF—Full Service
- Approximately 1,200 SF available: 3 offices, filing room, and conference room
- Ample parking
- Convenient West Little Rock location off of Rodney Parham near Treasure Hills
- Attractive, professional reception area
- Landlord on premises
- Common Kitchen/ Breakroom

For more information contact:

Jamie McLarty | 501.978.4973 | JMcLarty@HathawayGroup.com

John Hathaway | 501.978.4972 | JCHathaway@HathawayGroup.com

Treasure Hills



BUSINESS LEASE AGREEMENT

THIS AGREEMENT made between **Executive Services, Inc.**(the Lessor) **and Legal Aid of Arkansas, Inc.** (the Lessee), WITNESSETH:

For and in consideration of the covenants and agreements hereinafter contained, Lessor does hereby let, lease, and demise unto Lessee, and Lessee does hereby lease from Lessor, the following described premises in the City of Little Rock, County of Pulaski, State of Arkansas:

**711 Towne Oaks Drive, Suite A
Little Rock, Arkansas
(approximately 1,200 SF)**

TO HAVE AND TO HOLD the same unto the Lessee and unto the Lessee's heirs, successors and assigns, together with all privileges and appurtenances thereunto belonging, for the term and under the conditions hereinafter set forth.

1. TERM. The term of this lease shall be for a period of **THREE (3) YEARS**, beginning on **June 1, 2019** and ending on **May 31, 2022**.

2. RENTAL. As rental for the premises during the first year of the lease, Lessee shall pay to Lessor rent in the amount of **ONE THOUSAND TWO HUNDRED DOLLARS AND 00/100 (\$1200.00)** per month payable monthly in advance on or before the **1ST** day of each month.

Rental Amount for Year 2: The rental amount for year 2 (June 1, 2020 – May 31, 2021) shall be ONE THOUSAND TWO HUNDRED AND THIRTY SIX AND 00/100 (1,236.00) per month.

Rental Amount for Year 3: The rental amount for year 3 (June 1, 2021 – May 31, 2022) shall be ONE THOUSAND TWO HUNDRED AND SEVENTY THREE AND 00/100 (1,273.00) per month.

Option to Renew: If the Lessee is in good standing at the end of the lease term, the Lessee shall have the option to renew the lease for up to three (3) additional years rent with rent increases continuing at 3% for each successive lease year (June 1 – May 31). A sixty day (60) minimum notice shall be provided to the Lessor for renewal.

3. UTILITIES. Lessor shall be responsible for utilities water, trash, electricity, and gas (if applicable), Lessee shall be responsible for internet and telephone.

4. TAXES. Lessor shall pay all ad valorem taxes and assessments due to improvement districts or governmental bodies which may be levied, assessed or charged against the leased premises by reason of the real property and premises leased hereunder. Lessee shall be responsible for all taxes attributable to the property of the Lessee on the leased premises, and for all license, privilege, and occupation taxes levied, assessed, or charged against Lessee on account of the operation of the business from these premises.

5. REPAIRS. Lessor agrees that it will keep and maintain the exterior of the building on the leased premises, including the roof, walls, and exterior plumbing, excluding plate glass portions thereof, in good condition and repair, and agrees that if the roof or any part of the exterior walls or exterior plumbing of such building, excluding plate glass portions thereof, shall become defective or damaged at any time during the term hereof, upon notice from the Lessee, Lessor will immediately cause repairs to be made and restore the defective portions to good condition. Should the Lessor fail or refuse to commence repair of any defective condition within ten days from receipt of notice of the condition requiring such repair, Lessee may cause the same to be remedied and restored to good condition and may charge the reasonable cost thereof to the Lessor by deducting the cost from the next succeeding rental payments due to Lessor; it is expressly understood and agreed that the Lessor shall not be liable to Lessee for any damages the Lessee may sustain to Lessee's merchandise, business or personal records, equipment, or other property on or in the leased premises by reason of any such defective exterior roof, walls or exterior plumbing.

The Lessee shall maintain the leased premises in the same condition as it is at the beginning of the term of the Lease, reasonable wear and tear and damage by fire or unavoidable casualty excepted. The Lessor will be responsible for repairs and maintenance to heating, air, plumbing, electrical systems and all other major physical plant maintenance.

6. ALTERATIONS. Lessee shall have the right and privilege to make, at Lessee's expense, ordinary repairs and alterations to the leased premises. Substantive (in excess of \$1,000 in total cost) modifications to the leased premises will be allowed only by approval of the Lessor and at Lessee's expense. The Lessor will not unreasonably withhold approval for modifications.

7. FIXTURES: All trade fixtures installed by Lessee or acquired by Lessee independently of this lease shall remain Lessee's property and may be removed by Lessee at the expiration of this lease; provided, however, Lessee shall restore the leased premises and repair any damage thereto caused by such removal.

8. ACCEPTANCE OF PREMISES. It is expressly understood and agreed by the Lessee that it is leasing the demised premises in its current condition and that if the plumbing or electrical wiring proves to be inadequate for its purposes that it may, at its own expense, have such required additional plumbing and electrical wiring installed.

9. UNTENANTABILITY. Should the improvements on the leased premises, or any part thereof, be rendered unfit for occupancy for the purposes for which they are hereby let, by

reason of fire, windstorm, or other act of nature or unavoidable casualty, the rentals hereinabove stipulated to be paid by the Lessee, or such proportion thereof as is related to that portion of the improvements on the premises rendered untenable by reason of such damage, shall be remitted and abated by Lessor while the same remains unfit for occupancy and until the premises involved shall have been repaired or returned to tenantable condition. Provided, however, Lessor may, upon the occurrence of any such casualty, elect to terminate this lease if the cost of replacing or repairing the improvements so damaged upon the premises equal or exceeds 50% of the property damage insurance coverage maintained by Lessor thereon. Lessor shall in no way be liable or responsible for any damage to any property of the Lessee in or about the leased premises by reason of flood, water, fire, windstorm or other casualty or act of nature.

10. WARRANTIES OR TITLE. Lessor hereby warrants and covenants with and unto Lessee that it has an absolute and indefeasible title to the leased premises, and that Lessor will, during the term hereof and the full performance by Lessee of Lessee's obligations and covenants hereunder, defend the same and hold harmless the Lessee against the lawful claims of any and all persons whomsoever.

11. CONDUCT OF BUSINESS AND USES. The leased premises are leased to Lessee for the purpose of carrying on the business of a law office and related uses, and Lessee covenants and agrees with and unto Lessor that the premises will be used for those purposes and those related to them and no other, except with the prior written consent of Lessor. Lessee covenants and agrees that Lessee will not do or permit to be done anything in, upon, or about the leased premises that increases the hazard of fire beyond that which exists by reason of the uses and occupancy of the premises for the purposes mentioned. Lessee agrees to pay to Lessor, on demand, any increases in fire insurance premiums on the improvements and building which Lessor may be required to pay thereon by reason of any other use by the Lessee of the premises, and Lessee will not do or permit to be done anything within Lessee's control which would make the leased premises, or the improvements thereon, uninsurable in whole or in part. Lessee agrees that Lessee will not commit waste nor permit waste to be committed or done upon the leased premises.

12. SIGNS AND ADVERTISING. Lessee has the right to install signage. All signage shall be subject to reasonable approval by Lessor. Lessee shall be responsible for the removal of all signage at the end of the tenancy and for the repair of any damage to the Leased Premises caused by the installation of signage.

Lessor may place a "for rent" sign on the leased premises during the last thirty (30) days this lease is in force.

13. OFFICE FURNITURE. Lessor agrees that the Lessee may use any office furniture, decorations, or other items left in the premises at the beginning of the rental term. The office furniture shall remain the property of the Lessor. During the lease term, the Lessor may, by giving Lessee ten (10) days' written notice, reclaim any furniture, decoration, or other item from the leased premises.

14. INDEMNITY AGAINST DAMAGE OR INJURY. Lessee agrees to defend, indemnify, and hold harmless the Lessor against any claim, expense, loss or liability as a result of any breach by Lessee, Lessee's agents, servants, employees, customers, visitors, or licensees, of any covenant or condition of this lease, or as a result of Lessee's use or occupancy of the leased premises, or as a result of the carelessness, negligence, or improper conduct of Lessee, Lessee's agents, servants, employees, customers, visitors, or licensees.

15. DEFAULT. Lessee shall be in default under the provisions of this lease agreement upon the happening of any of the following events or conditions:

(a) Failure to pay the rentals provided herein at the times, in the amounts and in the manner set forth or within ten days after the date the same became due;

(b) Failure to keep or perform any of the covenants on the part of the Lessee herein to be kept or performed;

(c) Should the Lessee become insolvent, or become bankrupt, either voluntary or involuntary, or make any assignment for the benefit of creditors, or if a receiver be appointed for the benefit of Lessee's creditors, or if a receiver be appointed for Lessee to take charge of and manage Lessee's affairs, or if any levy of execution against the Lessee remains unsatisfied for a period of ten days from and after the levy of the same.

16. EARLY TERMINATION FOR LESSEE'S LOSS OF FUNDING. It is mutually agreed the Lessee is a non-profit organization and is reliant on grant funding for operation. In the event of a reduction or cessation in funding, the Lessee may, at its discretion, terminate this lease agreement by providing the Lessor with sixty (60) days' written notice of lease termination. If Lessee provides notice under this paragraph, Lessee agrees to vacate within the 60 day notice period. Lessee's early termination right shall be limited to the following two specific time periods:

April 1, 2020 – May 31, 2020, and

April 1, 2021 – May 31, 2021.

The intent is that the Lessor is guaranteed at minimum a one year lease. Then, assuming no notice or lease termination is given by Lessee to Lessor during the first or second time period, then the next year is fully in force.

17. REMEDIES IN THE EVENT OF DEFAULT. In the event of a default by Lessee, during the term hereof, Lessor may, at Lessor's option, declare this lease thereupon terminated, and Lessor shall have the right to evict the Lessee in accordance with Arkansas law. No delay in or failure to exercise any of the options herein granted to Lessor by reason of a default shall be a waiver thereof, and the waiver on one occasion of a default shall not be deemed a waiver of Lessor's right to exercise its remedies by reason of the same or a similar default at any later occasion.

18. WAIVER OF SUBROGATION. Lessor and Lessee and all parties claiming under them hereby mutually release and discharge each other from all claims and liabilities arising from

or caused by any hazard covered by insurance on the leased premises, or covered by insurance in connection with the property or activities conducted on the leased premises, regardless of the cause of the damage or loss.

19. ASSIGNMENTS AND SUBLETTING. Lessee shall not assign this lease, nor sublet the leased premises, or any part thereof, without the prior consent in writing of Lessor. The consent by Lessor to a particular assignment or subletting shall not be construed to relieve Lessee from the obligation to obtain the consent in writing of Lessor on any other or future assignment or subletting.

20. CONDEMNATION. In the event all or any part of the leased premises should be subjected to eminent domain proceedings, and if pursuant thereto an amount of the leased premises shall be condemned so as to render the residue inadequate for Lessee's purposes as herein set forth, Lessee shall have the option to terminate and cancel this lease by giving written notice of such intention to Lessor. If any such taking shall not render the residue of the leased premises wholly inadequate for Lessee's purposes as herein set forth, Lessee's rentals hereunder shall be reduced in the proportion which the value of the property taken bears to the whole value of the leased premises shall be payable to Lessor, and any damages for loss of leasehold interest, including the unamortized portion of the value involved in such condemnation of any non-removable fixture placed on the leased premises by Lessee with Lessor's approval shall be payable to Lessee.

21. SURRENDER OF POSSESSION. At the end of the term of this lease, or upon earlier termination by Lessor in accordance with the options herein reserved, Lessee agrees to surrender possession of the leased premises without demand. Should Lessee fail so to do, Lessee shall be responsible for, in addition to the damages generally recoverable by Lessor by reason of any breach by Lessee, all damages Lessor may sustain, including claims made by any succeeding tenant against Lessor which are founded upon delay or failure in delivering possession of the leased premises to such succeeding tenants.

22. BINDING EFFECT. This agreement shall inure to the benefit of and be binding upon the parties hereto, their respective successors, legal representatives, heirs and assigns, except as expressly limited otherwise herein.

23. NOTICES. Any notice called for or permitted under the terms hereof shall be given in writing and sent by ordinary mail to the designated address of the party to whom the notice is to be given. Lessor designates its address as 711 Towne Oaks Drive, Suite B, Little Rock, AR 72227. Lessee designates 714 South Main Street, Jonesboro, Arkansas 72401.

24. SECURITY DEPOSIT - LESSEE shall be required to remit \$1,200.00 as a security deposit. Said deposit shall be a security deposit and not last month's rent. After all keys are returned and the Lease term fulfilled, the deposit shall be returned within 30 days of LESSEE's vacation of the space, less any extraordinary wear and tear to the Premises.

IN WITNESS WHEREOF, the parties have hereunto set their hands this _____ day of
May, 2019.



Lessor: Executive Services Inc.

Lessee: Legal Aid of Arkansas, Inc.



U.S. Department of Housing and Urban Development

April 19, 2019

Pay to the order of **Legal Aid of Arkansas, Inc.** \$281,396.00

Two Hundred Eighty One Thousand Three Hundred Ninety Six Dollars

For Housing Awareness

For Private Enforcement Initiative (PEI)

Secretary
U.S. Department of Housing and Urban Development
Washington, D.C. 20472

June 4, 2019

Ms. Lori A. Chumbler
Board Chair
Legal Aid of Arkansas
714 South Main Street
Jonesboro, AR 72401

President
James J. Sandman

Board of Directors
John G. Levi
Chicago, IL
Chairman

Martha Minow
Cambridge, MA
Vice Chair

Robert J. Grey, Jr.
Richmond, VA

Harry J. F. Korrell
Seattle, WA

Victor B. Maddox
Louisville, KY

Laurie Mikva
Chicago, IL

Fr. Pius Pietrzyk, OP
Zanesville, OH

Julie A. Reiskin
Denver, CO

Gloria Valencia-Weber
Albuquerque, NM

Re: Midwest Legal Disaster Coordination Project
Recipient No. 604020
#DR19005

Dear Ms. Chumbler:

We are pleased to award Legal Aid of Arkansas a Midwest Legal Disaster Coordination grant based on the attached scope of work and subject to the attached grant terms and conditions.

The grant amount, term, and conditions are listed in the attached *Special Grant Award Acceptance Agreement* and referenced documents. To accept this grant, please sign the *Acceptance Agreement* by June 5, 2019.

Pursuant to the attached *Reporting and Payment Schedule*, LSC will disburse the first installment of 2019 Midwest Legal Disaster Coordination Project Grant funds after receiving and approving a Project Plan. Thereafter, LSC will disburse grant funds in installments as you successfully complete the various project milestones and submit the required documentation.

If you have questions about your Midwest Legal Disaster Coordination Project Grant award, please contact Martin Costello at 202.295.1572, or by email at costellom@lsc.gov.

We look forward to working with you on this important project. Thank you for helping to make equal access to justice a reality.

Sincerely,



James J. Sandman
President

cc: Lee Richardson, Executive Director

**2019 Midwest Legal Disaster Coordination Project
Special Grant Award Acceptance Agreement**

Grantee Number: 604020
Grant Number: DR19005
Grantee Name: Legal Aid of Arkansas
Grant Type: Midwest Legal Disaster Coordination Project Grant
Total Amount: \$161,000
Start Date: June 3, 2019
Term: 30 months

We accept the above-described Special Grant award and agree to the terms specified in the following documents, all of which are incorporated here by reference:

1. 2019 Midwest Legal Disaster Coordination Project Special Grant Terms and Conditions;
2. *Our organization's application, as modified by our discussions with disaster grant staff*;
3. *Grant Award Letter* dated June 4, 2019;
4. *Reporting and Payment Schedule*; and
5. *Final Approved Budget*.

By signing below, we certify that we will use our Special Grant award to achieve the project proposed in our Midwest Legal Disaster Coordination Project Scope of Work and the Terms and Conditions of the documents listed above.

Please sign this Grant Award Acceptance Agreement *electronically* by June 5, 2019.

(Hard copies are not accepted. Please do NOT mail us a hard copy of this Agreement.)

Lee Richardson

Lee Richardson (Jun 5, 2019)

Name of Executive Director

Name of Board Chairperson

**Reporting and Payment Schedule
2019 Midwest Legal Disaster Coordination Project
Legal Aid of Arkansas**

Payment #	Report Due Date	Required Report	Reporting Period	Payment Date	Payment Amount (% of Total Grant)
1	8/5/2019	Project Plan	-	Aug. 2019	20%
2	1/17/2020	Progress Report (covering months 1-7) Financial Report (covering months 1-7)	6/3/19 - 12/31/19	Feb. 2020	20%
3	7/17/20	Progress Report (covering months 8-13) Financial Report (covering months 8-13)	1/1/20 - 6/30/20	Aug. 2020	20%
4	1/15/21	Progress Report (covering months 14-19) Financial Report (covering months 14-19)	7/1/20 - 12/31/19	Feb 2021	20%
5	7/16/21	Progress Report (covering months 20-25) Financial Report (covering months 20-25)	1/1/21 - 6/30/21	-	0%
6	12/17/21	Final Report and Final Financial Report (covering entire 30- month grant period)	6/3/19 - 11/30/21	Dec. 2021	20%

**Final Approved Budget
2019 Midwest Legal Disaster Coordination Project
Legal Aid of Arkansas**

	A	B	C	D	E	
	LSC Share	Applicant Share	Cash Support	In-Kind Support from Other Partners	TOTAL (Columns A through D)	
1. Personnel Expenses	a. Salaries/Wages	126,050	22,959	0	0	149,009
	b. Fringe Benefits	25,097	4,571	0	0	29,668
	<i>Subtotal Personnel Expenses</i>	\$ 151,147	\$ 27,530	\$ -	\$ -	\$ 178,677
2. Project Expenses	a. Travel	0	5,586	0	0	5,586
	b. Equipment	1,300	475	0	0	1,775
	c. Software	2,100	0	0	0	2,100
	d. Supplies	4,760	0	0	0	4,760
	e. Communication	1,693	337	0	0	2,030
	f. Training	0	4,612	0	0	4,612
	g. Evaluation	0	0	0	0	0
	h. Other	0	0	0	0	0
<i>Subtotal Project Expenses</i>	\$ 9,853	\$ 11,010	\$ -	\$ -	\$ 20,863	
3. Third-Party Transfers	a. Contract	0	0	0	0	0
	b. Subgrant	0	0	0	0	0
	<i>Subtotal Third-Party Transfers</i>	\$ -	\$ -	\$ -	\$ -	\$ -
TOTALS	\$ 161,000	\$ 38,540	\$ -	\$ -	\$ 199,540	
Percentage of Total Project	81%	19%	0%	0%	100%	

Suit filed over Medicaid terminations

 arkansasonline.com/news/2019/may/24/suit-filed-over-medicaid-terminations-2-1

May 24,
2019

A lawsuit filed Thursday by a legal aid organization seeks damages against four Arkansas Department of Human Services officials in their personal capacities, contending they have failed to respond to requests to fix a problem in the way the department handles Medicaid recipients' appeals of benefit terminations.

According to the lawsuit by Jonesboro's Legal Aid of Arkansas, the department routinely terminates the benefits of recipients who are found to be ineligible for services even when a recipient asks for the services to continue during an appeal of the department's determination.

The suit contends that the practice violates federal Medicaid regulations, which prohibit state agencies from terminating or reducing benefits, pending the outcome of an evidentiary hearing, to recipients who appeal the agency's decision within 10 days.

The U.S. Supreme Court has also ruled that Medicaid recipients have a right under the 14th Amendment to the U.S. Constitution to such a hearing before their benefits are reduced, according to the lawsuit.

"This isn't just some arcane, bureaucratic rule," Legal Aid attorney Kevin De Liban said. "These laws are meant to protect folks who are really vulnerable and who depend on Medicaid for the services they need to live a dignified life."

Spokesmen for the Human Services Department didn't immediately respond to a request for comment on Thursday evening.

The suit was filed in U.S. District Court in Little Rock on behalf of Ginger Elder, a 71-year-old former teacher from Jonesboro whose Medicaid benefits were terminated on March 25 after an assessment by a Human Services Department contractor found that she no longer qualified for the program on the basis of her disabilities.

The East Arkansas Area Agency on Aging told Elder about the department's decision to terminate her benefits after learning about it on March 12, three days before a notice of the decision was issued, according to the lawsuit.

The notice said Elder may be eligible to have her benefits continue during the appeal, but may be responsible for the cost of the care provided if the department's determination of her ineligibility is upheld.

On March 13, Elder sent the department a letter appealing the decision and asking for her benefits to continue while the appeal was pending, the lawsuit says.

Under Medicaid's ARChoices program, Elder, who suffers from multiple ailments and uses an oxygen tank, had received home-delivered meals and help with an attendant from the aging agency with tasks such as dressing and bathing.

Medicaid also paid for her Medicare Part B premiums, mental health treatment and medical supplies, the lawsuit says.

Since her benefits were cut off, she has fallen several times, is no longer receiving mental-health treatment and must pay out of pocket for supplies such as diapers that Medicaid previously covered, the lawsuit says.

Her husband, Vilas, 73, works part time at a movie theater and occasionally does long-distance driving to earn money, the lawsuit says. He has had to work more often to cover costs that were previously covered by Medicaid, the suit says.

A hearing on the appeal had been scheduled for Thursday but was continued.

As exhibits to the lawsuit, Legal Aid included more than a dozen emails, dating back to 2016, in which it complained about Medicaid recipients' benefits being reduced or terminated even though the 10-day window to file an appeal had not expired or the recipient had appealed and requested that the benefits continue during the appeal.

In the emails, the aid group repeatedly asked that the department develop a procedure to ensure recipients' benefits weren't prematurely terminated.

"This is my third case in the last three weeks in which the agency has not continued services at the pre-reduction levels despite timely fair hearing requests," De Liban said in one email, on April 27, 2016. "The agency is playing with individuals' lives and livelihoods."

De Liban said the department will typically restore the benefits in response to a request from an attorney, but doesn't appear to have a process for noting when the recipient includes the request while filing an appeal.

The result is a needless disruption in benefits for Arkansans who may ultimately prevail in overturning the department's decisions, he said.

"We try to help the folks who do come to us, but there are hundreds or thousands of people who file appeals who don't come to us," De Liban said. "Those people who don't have the assistance of an attorney very likely have suffered in ways similar to Ms. Elder."

The lawsuit seeks compensatory and punitive monetary damages against department Director Cindy Gillespie; Craig Cloud, director of the department's Provider Services and Quality Assurance Division; Chief Counsel David Sterling; and Richard Rosen, the managing attorney in Sterling's office.

The suit contends the officials have been "deliberately indifferent" to the department's unconstitutional practices.

It also asks Judge Kristine Baker to restore Elder's benefits and order the department to implement a policy ensuring that recipients are able to continue receiving benefits pending the outcome of an appeal.

Metro on 05/24/2019

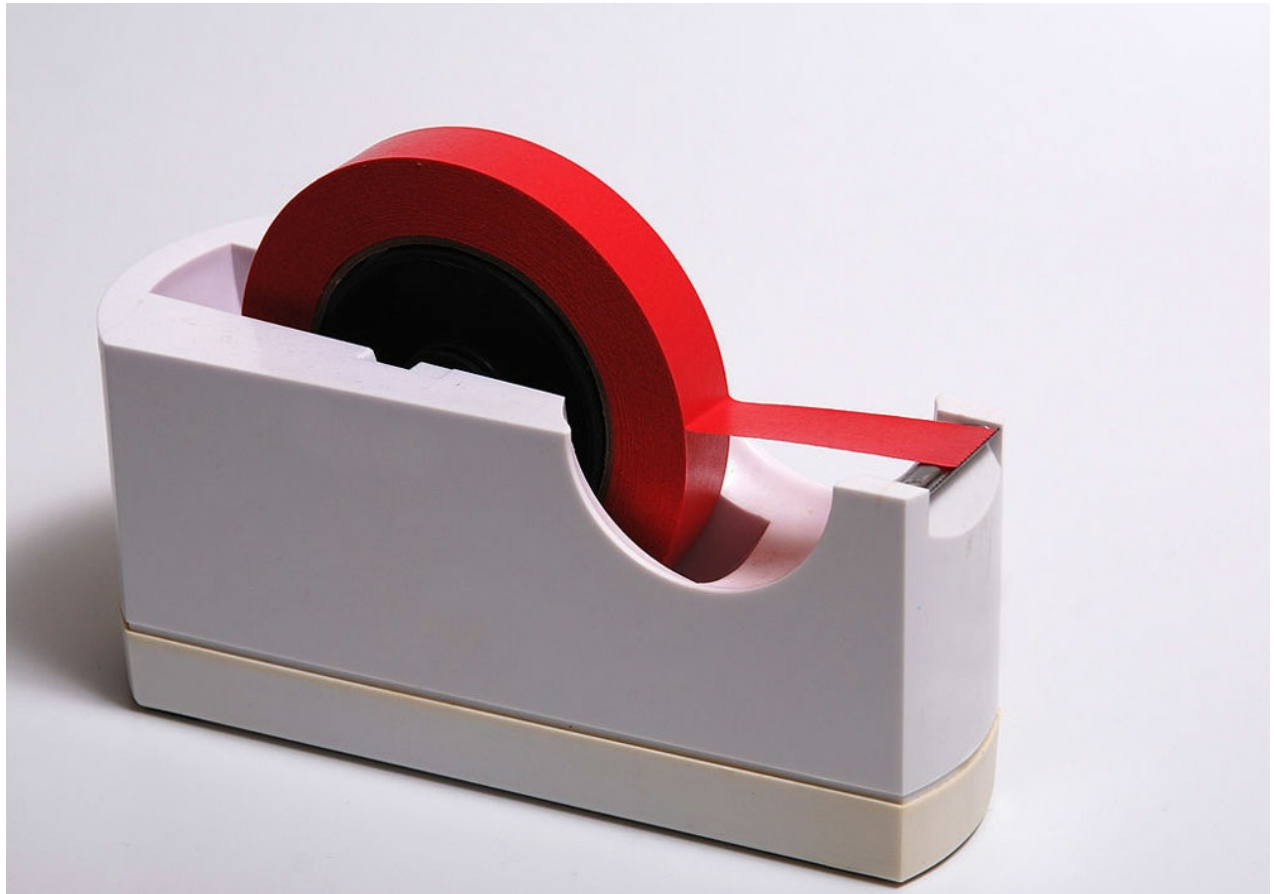
Print Headline: Suit filed over Medicaid terminations

Saving Medicaid Expansion: An Arkansas Nonprofit Legal Aid Story

nonprofitquarterly.org/saving-medicaid-expansion-an-arkansas-nonprofit-legal-aid-story

Steve Dubb

May 30,
2019



Lilly_M [CC BY-SA 3.0], via Wikimedia Commons

Last September, [NPQ covered](#) a Medicaid work requirement that had been initiated in Arkansas three months before. As *NPQ's* Carol Levine noted, "In the guise of 'lifting people out of poverty'... Arkansas officials have begun assigning work requirements (with many exemptions for those who clearly cannot work) to Medicaid recipients." Not surprisingly, the main effect was for many to lose coverage. As Levine points out, this loss is "not because they are not meeting the work requirement—in most cases, they are working, and were working before this program went into effect. Rather...[it's] because they did not receive notification of this requirement, failed to open their mail, moved, or lacked access to a cellphone or computer to report their hours online."

The impact was devastating. [Kevin de Liban](#), an attorney for [Legal Aid of Arkansas](#), a 52 year-old nonprofit with a budget of roughly \$2.7 million that serves Arkansas' eligible low-

income population of 700,000, explains, “Over 18,000 lost coverage just due to the work requirements and another 30,000 lost coverage due to administrative red tape. They lost healthcare that is needed to support their ability to be able to work. Health insurance lets you be healthy.”

“Many called us trying to figure out how can they keep coverage,” de Liban says. “We were involved helping people keep coverage while the litigation was pending.”

According to de Liban, the work requirements in Arkansas marked the single biggest social safety net case faced by his organization in at least 20 years, potentially affecting 235,000 Arkansans. As he explains,

We knew from the SNAP [[Supplemental Nutrition Assistance Program](#) or “food stamps”] experience and the TANF [[Temporary Assistance for Needy Families](#) or “welfare”] experience that these work requirements were going to cause immense pain. We are a legal aid organization on the front lines—that’s a big thing. They always say—“you don’t have a case, if you don’t have a client.” Legal aid organizations are uniquely set up to hear from the people most affected by these big policy decisions and do what we can to help.

In response to the unfolding calamity, in August 2018, Legal Aid of Arkansas, in partnership with the [Southern Poverty Law Center](#) (SPLC) and the [National Health Law Program](#), filed suit in a federal case known as *Gresham v. Azar*. Charles Gresham is one of nine plaintiffs whose health coverage was disrupted by the work rules. (*Azar* refers to Alex Azar, the US Secretary of Health and Human Services). In Gresham’s case, he learned through Legal Services that he was exempt from the work requirement rules, but the need to repeatedly request 60-day extensions to maintain health coverage has exacerbated the underlying medical condition (anxiety) that is keeping him from working.

Here, it is worth pausing to recall that this back-and-forth about state Medicaid rules was not supposed to happen. As many *NPQ* readers will remember, according to the provisions of the [Affordable Care Act of 2010](#), state Medicaid expansion was meant to be automatic. However, the US Supreme Court, [even as it upheld in 2012](#) the Affordable Care Act in *National Federation of Independent Business et al v. Sebelius*, ruled that states could not be compelled to expand Medicaid coverage, because, according to the majority opinion written by Chief Justice John Roberts, doing so would violate “the Constitution by threatening States with the loss of their existing Medicaid funding if they decline to comply with the expansion.” (Two justices, Ruth Bader Ginsburg and Sonia Sotomayor, dissented.)

As a result, whether or not states expanded coverage to provide Medicaid insurance to adults with incomes up to 138 percent of the federal poverty level, as the Affordable Care Act had indicated, became a political choice, not a federal mandate. [To date](#), 35 states and the District of Columbia have agreed to Medicaid expansion as the law envisioned, two

(Utah and Wisconsin) have agreed to a less extensive expansion to 100 percent of the federal poverty level, and 13 states—the majority of which are in the South—have not expanded Medicaid coverage.

Arkansas was one of the few southern states to adopt Medicaid expansion. However, Medicaid expansion in Arkansas has always been politically vulnerable. Even to get it passed initially required some political legerdemain; rather than expanding the state's program, the legislature agreed to use federal Medicaid expansion dollars to provide subsidies to enable Medicaid recipients to obtain private insurance. Also, under Arkansas state law, the state budget requires a three-fourths majority, giving legislative minorities each year the ability to extract concessions.

While Medicaid expansion was passed under a Democratic governor, Republican Governor Asa Hutchinson agreed to continue the policy. However, according to de Liban, in 2016 that restrictive state budget rule came into play. To “wrangle up the last votes to get the three-quarters majority,” de Liban indicates, Hutchinson agreed to petition the federal government to require able-bodied Arkansans to report work hours to qualify for Medicaid. Had Hilary Clinton been elected president, notes de Liban, it is highly unlikely that federal officials would have accepted the state's petition, making the rider that Hutchinson accepted to the state's 2016 budget bill meaningless. However, with Donald Trump in office, the rule in Arkansas was approved, affecting Charles Gresham, eight other named plaintiffs, and tens of thousands of Arkansans.

Until these work restrictions began to be phased in, Medicaid expansion had been largely successful in Arkansas, de Liban says, with the uninsured rate falling from 22 percent to 10 percent. “Some of our clients were seeing a doctor outside the emergency room for the first time,” de Liban relates. “We have seen Medicaid expansion be a great help for our communities. That is why the work requirements pose such a threat to them.”

Gresham's case was bad enough, but other plaintiffs in the suit suffered even greater consequences. Adrian McGonigal, notes de Liban, suffered from chronic obstructive pulmonary disease (also known as “COPD”). McGonigal was not a smoker, but he had “weak lungs and asthma as a child,” de Liban explains. “As long as he had his meds, he was able to work. He was working close to full time. He got confused by the work requirements, didn't meet the reporting aspect, and ended up losing coverage.” Without his meds, McGonigal “was hospitalized three times in a four-week span.” McGonigal's “employer tried to work with him,” de Liban says, but ultimately McGonigal lost his job. In short, the work reporting requirements were the primary cause of McGonigal's unemployment. “Adrian's situation shows the real-life harm that people suffer because of these red tape termination traps that the state imposed,” de Liban adds.

In March 2019, Federal judge James E. (“Jeb”) Boasberg, when vacating the Arkansas rules, began his opinion by citing McGonigal's case at length:

Adrian McGonigal is 40 years old and lives with his brother in Pea Ridge, Arkansas. He used to have a job working in the shipping department of Southwest Poultry, a food-service company located nearby, although he received no medical insurance through his employer. Like many Americans, he has several serious medical conditions. Beginning in 2014, McGonigal was able to receive medical care—including regular doctor visits and numerous prescription drugs—through the state’s expanded Medicaid program. In mid-2018, however, McGonigal learned that he would be subject to new work requirements, which he would have to report online, as a condition of receiving health benefits. These were imposed by the Arkansas Works Amendments (AWA), approved by the US Secretary of Health and Human Services in March 2018. Despite his lack of access to, and difficulty working with, computers, he was able to report his employment in June 2018, but he did not know he needed to continue to do so each month. As a result, when he went to pick up his prescriptions in October, the pharmacist told him that he was no longer covered, and his medicines would cost him \$800. In the absence of Medicaid, he could not afford the cost of the prescriptions and so did not pick them up. His health conditions then flared up, causing him to miss several days of work, and Southwest Poultry fired him for his absences. He thus lost his Medicaid coverage and his job.

According to de Liban, McGonigal’s case was hardly unique. “Many of the clients that called us,” de Liban notes, “were in similar situations. They needed the insurance to work. They needed insurance to be healthy. They didn’t know how to report hours....You have this full range of people who were terribly harmed....Work requirements were another way for people to get tripped up and fall back and struggle more to improve their economic situation.”

Overall, de Liban adds, “Of the people who were subject to the work requirement, 80-90 percent were not able to comply. The work requirements were basically a guarantee of termination [of coverage] for every person who was subject to them.”

Since Boasberg ruled, the federal government has appealed to the DC Court of Appeals. Oral arguments, de Liban says, will take place in October. A ruling might not occur until early 2020. “The work reporting requirements are gone for now,” de Liban adds, “They are not coming back this year.” Still, the case is hardly over, even if the federal government loses again at the Court of Appeals, “It is the safe bet they will appeal to the Supreme Court,” de Liban cautions.

As de Liban observes, the case illustrates the importance of the legal aid system as a whole. Most people, de Liban notes, when they think of social justice lawyers, think of large nonprofits like SPLC or the American Civil Liberties Union (ACLU). “People don’t have a good conception of what social justice lawyers do. You have visions of big cases like *Brown v. Board of Education*.” These large nonprofits, de Liban adds, “do incredibly important work, but smaller folks have day-to-day legal needs” and that is where groups like his legal aid nonprofit step in.

“For every single legal aid lawyer, there are 18,000 eligible people,” de Liban estimates. *NPQ* itself has noted the shortage of legal aid often, including articles that featured [Hawaii](#), [Massachusetts](#), [Texas](#), and [Kentucky](#). As *NPQ*’s Ruth McCambridge noted in the Kentucky article, “Fundraising for some fields of nonprofits is less about writing proposals and more about warding off recurring political attacks at the federal and state levels. And so it is with legal services funding. Every time we turn around, there is another threat.”

The scope of legal aid, adds de Liban, is wide-ranging. “We are front line service providers and work on all sorts of issues—threats to wages, domestic violence, tenant rights, access to credit, reentry—we are there at the front lines.” In Arkansas, de Liban notes, “you used to be able to be put in jail for not paying your rent. Legal Aid of Arkansas was able to get that declared illegal.... We do what we can to work upstream to make it so that all of the people who don’t come to us end up getting justice or being in a fairer situation.”

Meanwhile, *Gresham v. Azar* proceeds. And while it may seem only Arkansas is affected, that is hardly the case. [Kentucky](#) approved a similar rule but was blocked in court before it could be implemented. All told, the [Henry J. Kaiser Family Foundation](#), says a total of [15 states](#) have sought similar federal waivers. And, de Liban notes, work requirements have also been floated for food stamps and housing programs. “Now is a real moment in time where there is an assault on the social safety net through the use of these kinds of work requirements,” de Liban adds.

Is there a silver lining in this? Perhaps. “Sad as it is that 18,000 suffered,” de Liban says, “hopefully it can teach us why work requirements are so horrible....Work requirements keep people in poverty by undermining the access to the benefits they need to get a more economically stable life.”—Steve Dubb

LEGAL AID OF ARKANSAS

WILLS CLINIC

University of Arkansas Lon Mann Cotton
Research Station

8 Lee Road 214

Marianna, AR 72360

Friday, June 7th from 10 AM - 1 PM

FREE ESTATE PLANNING INCLUDING:

- SIMPLE WILLS
- POWER OF ATTORNEY FOR HEALTHCARE AND FINANCES
- ADVANCE DIRECTIVES FOR HEALTHCARE
- BENEFICIARY DEEDS

Please call Janis Waddy at (870) 633-2248 to make an appointment. Appointments are on a first come, first serve basis. For more information, please contact Greneda Johnson at (870) 732-6370 ext. 2202.



LEGAL AID *of* ARKANSAS

Equal Access to Justice

Fighting Poverty, Maintaining Dignity, Assuring Justice

EXPUNGEMENT CLINIC

Friday June 28th, 2019 10:00am - 2:00pm

Craighead County Public Library

317 W Oak Avenue, Jonesboro Arkansas

FREE EVENT

Get help sealing your criminal record

VOULNTEER ATTORNEYS WILL HELP DETERMINE IF CONVICTIONS CAN BE SEALED & WILL PREPARE PETITIONS & ORDERS

APPOINTMENTS ARE REQUIRED



Please contact us today for prescreening and to schedule an appointment

(870) 972-9224

(ext. 4318 or ext. 6315)

All Clients **MUST** bring the following:

- ➔ An ACIC Criminal History Report
- ➔ A Judgment & Dispostion Order



Made with PosterMyWall.com

Planning for Your Child's Future:

Wills, Powers of Attorney, and Advanced Directives

- Do you need help planning for the future?
- Do you want to make your wishes known in the event of an emergency?
- Would you like to make sure someone can make medical decisions and care for your child when you are gone?

The Arkansas Children's Medical-Legal Partnership is holding an event to help you— at no cost to those who qualify.

Have legal professionals prepare documents including:

- Simple wills
- Power of attorney for healthcare and finances
 - Advance Directives for healthcare
 - Beneficiary needs



Appointments are limited – please call the Medical-Legal Partnership to make an appointment today:

Donna Ramsey
501-364-1541

Sponsored by Akin Gump Strauss Hauer & Feld LLP, Equal Justice Works, Walmart, and Legal Aid of Arkansas

Thursday, June 6th, 2019

10:00 am – 2:00 pm

**Arkansas Children's Hospital
Professional Building 1 - Children's Hall
6 Children's Way
Little Rock, AR 72202**

**For more information, please contact:
Jennifer Goodwin | (501) 364-3128**



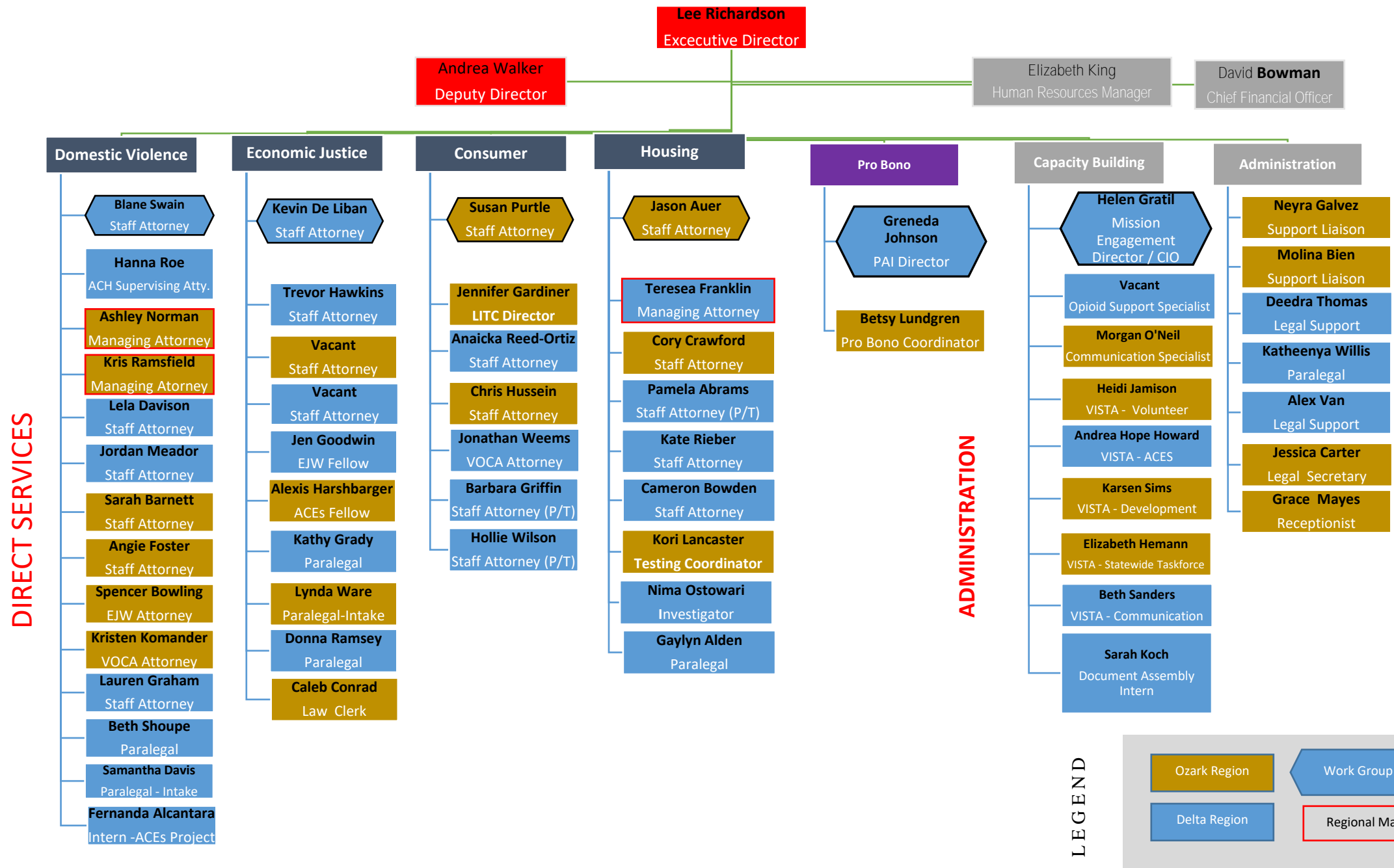
LEGAL AID OF ARKANSAS OFFICE DIRECTORY

All Offices 870-972-9224 or 1-800-967-9224

*office point of contact

Arkansas Children's Hospital			Newport		
11 Children's Way Little Rock, AR 72202 Mailing: One Children's Way, Slot 695, Little Rock, AR 72202			202 Walnut St. Newport, AR 72112		
	501-364-1541 – Phone			870-523-9892 – Fax	
	501-978-6479 - Fax				
Goodwin, Jennifer	EJW Attorney	6311	Grady, Kathy	Economic Justice Paralegal	3301
Pritchard, Amy	Staff Attorney	4305	Griffin, Barbara	Staff Attorney	3303
Ramsey, Donna	Legal Support Specialist	4310	Swain, Blane*	Domestic Violence WG Leader	3302
Roe, Hannah*	Supervising Attorney	6306	Wilson, Hollie	Staff Attorney	3304
Vacant	Staff Attorney	4326	Springdale		
Harrison			1200 Henryetta St. Springdale, AR 72762		
205 W. Stephenson Avenue Harrison, AR 72601			479-751-0002– Fax		
	800-967-9224 – Fax		Alden, Gaylynn	Housing Paralegal	4315
Davis, Samantha*	Legal Support Specialist	5304	Vacant	Staff Attorney	6309
Foster, Angie	Staff Attorney	5303	Barnett, Sarah	Staff Attorney	4309
Lundgren, Betsy	Pro Bono Coordinator	6315	Bien, Molina	Marshallese Liaison	7303
Little Rock			Bowling, Spencer	EJW VOCA Fellow	4312
711 Town Oaks Dr. Little Rock, AR 72227			Bowman, David	Fiscal Officer	4308
Abrams, Pamela	Staff Attorney	6319	Carter, Jessica	Legal Secretary	4319
Auer, Jason	Housing WG Leader	6318	Crawford, Cory	Staff Attorney	4323
Bowden, Cameron	Fair Housing Attorney	6602	Gardiner, Jennifer	Tax Clinic Director	6304
Ostowari, Nima	Fair Housing Investigator	6601	Galvez, Neyra	Spanish Interpreter	4317
Helena-West Helena			Hemann, Elizabeth	Capacity Building VISTA	4316
622 Pecan Helena-West Helena, AR 72342			Hussein, Chris	Staff Attorney	4306
Weems, Jonathan	VOCA Attorney	1302	Jamison, Heidi	Pro Bono VISTA	4318
Hope-Howard, Andrea	ACEs VISTA	1303	King, Elizabeth*	Human Resources	4311
Vann, Alex*	Legal Support Specialist	1301	Komander, Kristen	VOCA Attorney	4314
Jonesboro			Lancaster, Kori	Fair Housing Testing Coordinator	4320
714 S. Main St. Jonesboro, AR 72401			Norman, Ashley	Staff Attorney	4302
	870-910-5562 – Fax		Purtle, Susan	Consumer WG Leader	4301
Franklin, Teresa*	Regional Manager	6310	Ramsfield, Kris	Staff Attorney	4304
Graham, Lauren	Staff Attorney	6301	Sims, Karsen	Development VISTA	4303
Gratil, Helen	Mission Engagement/CIO	6302	Ware, Lynda	Intake Paralegal	4307
Hawkins, Trevor	Staff Attorney	6313	West Memphis		
Meador, Jordan	Staff Attorney	6314	310 Mid-Continent Plaza Suite 420 West Memphis, AR 72301		
Vacant	Opioid Paralegal	6308	Davison, Lela*	Staff Attorney	2207
Ortiz-Reed, Anaicka	Staff Attorney	6316	De Liban, Kevin	Economic Justice WG Leader	2206
Richardson, Lee	Executive Director	6305	Egan, Alexandria	Intern	2204
Sanders, Beth	Communications VISTA	6317	Harshbarger, Alexis	Rural Summer Legal Corps	2205
Shoupe, Beth	Dom. Violence Paralegal	6307	Johnson, Greneda	Pro Bono Director	2202
Thomas, Deedra	Intake Paralegal	6312	Rieber, Kate	Staff Attorney	2203
Walker, Andrea	Deputy Director/HelpLine	6303	Willis, Katheenya	Legal Support Specialist	2201

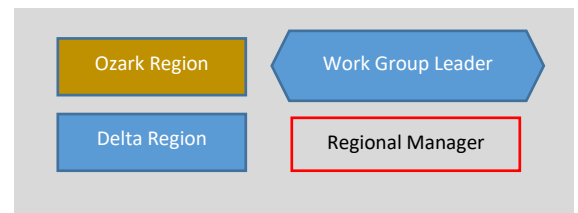
ORGANIZATIONAL CHART



DIRECT SERVICES

ADMINISTRATION

LEGEND



Largest Law Firms

Ranked by licensed attorneys in Arkansas

	Firm Name Address Phone, Fax, Website Other Locations	No. of Lawyers	Managing Partner(s)	Sample Client List/Services
1	Friday Eldredge & Clark LLP 400 W. Capitol Ave., Suite 2000, Little Rock 72201 (501) 376-2011, (501) 376-2147, www.FridayFirm.com Fayetteville, Rogers	89	Price C. Gardner	Business and corporate matters, employee benefits, healthcare, labor and employment, litigation, public finance, taxation
2	Mitchell Williams Selig Gates & Woodyard PLLC 425 W. Capitol Ave., Suite 1800, Little Rock 72201 (501) 688-8800, (501) 688-8807, www.MitchellWilliamsLaw.com Rogers; Jonesboro; Austin, TX	72	Rick T. Beard	Full-service corporate law firm that provides strategic, comprehensive legal services
3	Wright Lindsey Jennings 200 W. Capitol Ave., Suite 2300, Little Rock 72201 (501) 371-0808, (501) 376-9442, www.WLJ.com Rogers	67	Stephen R. Lancaster	Exxon Mobil Corp., First Arkansas Bank & Trust, Southland Gaming & Racing, Baptist Health, Bond.AI
4	Kutak Rock LLP 124 W. Capitol Ave., Suite 2000, Little Rock 72201 (501) 975-3000, (501) 975-3001, www.KutakRock.com Fayetteville, Rogers, and 16 additional offices nationwide	56	Terry W. Pool	Agribusiness, banking, compensation and employee benefits, construction, estate planning, healthcare, environmental, mergers and acquisitions, real estate, tax and more
5	Barber Law Firm PLLC 425 W. Capitol Ave., Suite 3400, Little Rock 72201 (501) 372-6175, (501) 375-2802, www.BarberLawFirm.com Little Rock, Bentonville	34	Managing Members	Business and corporate, labor and employment, environmental and regulatory, insurance, construction, taxation and more
6	Rose Law Firm PA 120 E. Fourth St., Little Rock 72201 (501) 375-9131, (501) 375-1309, www.RoseLawFirm.com Fayetteville	31	Robyn P. Allmendinger	J.A. Riggs Tractor Co., Lexicon, Mountaire, Stephens Inc., The Stephens Group
7	Quattbeaum Grooms & Tull PLLC 111 Center St., Suite 1900, Little Rock 72201 (501) 379-1700, (501) 379-1701, www.QGTLaw.com Springdale	30	Managing Members	Entergy Corp., J.B. Hunt Transport, Inc., Dillard's Inc., Simmons Bank, USABLE Corp., CARTI
8	Legal Aid of Arkansas 714 S. Main St., Jonesboro 72401 (870) 972-9224, (870) 910-5562, www.ARLegalAid.org Springdale, Helena-West Helena, West Memphis, Newport, Harrison, Little Rock	29	Lee Richardson	Low-income people residing in Arkansas
9	Center for Arkansas Legal Services 1300 W. 6th St., Little Rock 72201 (501) 376-3423, (501) 376-3664, www.ARLegalServices.org El Dorado, Fort Smith, Hot Springs, Pine Bluff, Russellville	27	Jean Turner Carter	Low-income individuals and families, including veterans, senior citizens, domestic violence victims, abused or abandoned children and persons with disabilities
10	Rainwater Holt & Sexton PA 801 Technology Drive, Little Rock 72223 (501) 888-8888, (501) 868-2505, www.CallRainwater.com Little Rock, Conway, Hot Springs, Fayetteville	26	Mike Rainwater Bob Sexton	Personal injury, auto accidents, defective products, drug injuries, nursing home abuse, Social Security Disability, workers' compensation, and more
11	Gill Ragon Owen PA 425 W. Capitol Ave., Suite 3800, Little Rock 72201 (501) 376-3800, (501) 372-3359, www.Gill-Law.com	24	Matthew B. Finch	American Electric Power/SWEPCO, Arkansas Teacher Retirement System, Flake & Kelley Commercial, Centennial Bank, Heifer Project International Inc.
12	Dover Dixon Horne PLLC 425 W. Capitol Ave., Suite 3700, Little Rock 72201 (501) 375-9151, (501) 375-6484, www.DDH.Law	21	Cal McCastlain Randy L. Bynum Matthew Boch	ArkBest Corp., Associated Industries of Arkansas, CenterPoint Energy, Companion Insurance Co., Nucor
12	Taylor King Law PA 320 Main St., Atkadeiphia 71923 (800) 227-9732, www.TaylorKingLaw.com Little Rock, Springdale, Jonesboro, Fort Smith, Jackson, MS	21	Taylor A. King	Personal injury and wrongful death resulting from automobile and motor cycle accidents, nursing home abuse and neglect, premises liability, traumatic brain injuries, defective products
14	RMP LLP 5519 Hackett Road, Suite 300, Springdale 72762 (479) 443-2705, (479) 443-2718, www.RMP.law Bentonville, Johnson, Jonesboro, Little Rock	20	Joseph Reece Lee Moore	Estate planning and tax advocacy, business and corporate matters, labor and employment, litigation, transactions, elder care planning, taxation
15	Hilburn Calhoun Harper Pruniski Calhoun Ltd. 1 Riverfront Place, North Little Rock 72114 (501) 372-0110, (501) 372-2029, www.HilburnLawFirm.com	17	By Committee	Centennial Bank, Arkansas Federal Credit Union, Deere & Co., Erwin-Keith Inc., Kroger Co.
15	Sanford Law Firm PLLC 650 S. Shackelford Road, Suite 411, Little Rock 72211 (501) 221-0088, (888) 787-2040, www.SanfordLawFirm.com Russellville; San Antonio	17	Josh Sanford	Employment and labor law
15	Wilson & Associates PLLC 400 W. Capitol Ave., Suite 1400, Little Rock 72201 (501) 219-9388, www.TheWilsonLawFirm.com Little Rock, Fayetteville; Memphis, Nashville, Knoxville, TN; Jackson, MS	17	Jennifer Wilson-Harvey	Real estate law, collections, immigration law, family law, adoptions, civil litigation
18	Williams & Anderson PLC 111 Center St., 22nd Floor, Little Rock 72201 (501) 372-0800, (501) 372-6453, www.WilliamsAnderson.com	16	By Committee	Arkansas Democrat-Gazette, Arkansas Association of Pawn Brokers, LISA Academy, Ceco Concrete Construction, Southwest Power Pool
19	Cross Gunter Witherspoon & Galchus P.C. 500 President Clinton Ave., Suite 200, Little Rock 72201 (501) 371-9999, (501) 371-0035, www.CGWG.com Springdale	15	M. Stephen Bingham	Employment law, labor relations, employment-related immigration, health care law, construction law and more
19	Munson Rowlett Moore & Boone PA 400 W. Capitol Ave., Suite 1900, Little Rock 72201 (501) 374-6535, (501) 374-5906, www.MRMBLaw.com	15	Tim Boone Richard Shane Strabala Sarah Greenwood	State Farm, Catholic Health Initiatives, Community Health Systems, Sedgwick Claim Management, Allstate Insurance
21	Conner & Winters 4375 N. Vantage Drive, Suite 405, Fayetteville 72703 (479) 582-5711, www.CWLaw.com Tulsa, Oklahoma City, Dallas, Houston, Washington, D.C.	14	Todd Lewis John Elrod	Health care and employment law, transportation and logistics, real estate, banks, construction and more

LSC - Legal Services Corporation: America's Partner for Equal Justice

lsc.gov/about-lsc/laws-regulations-guidance/lsc-act

Legal Services Corporation Act

As Amended, 42 U.S.C. 2996 et seq

Public Law 93-355
93 Congress, H.R. 7824
July 25, 1974
LSC Act

Public Law 95-222
95 Congress, H.R. 6666
December 28, 1977
LSC Reauthorization Act

And other amendments.

AN ACT To amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Legal Services Corporation Act of 1974.

SEC. 2. The Economic Opportunity Act of 1964 is amended by adding at the end thereof the following new title:

TITLE X-LEGAL SERVICES CORPORATION ACT

STATEMENT OF FINDINGS AND DECLARATION OF PURPOSE

SEC. 1001. The Congress finds and declares that--

(1) there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;

(2) there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel and to continue the present vital legal services program;

(3) providing legal assistance to those who face an economic barrier to adequate counsel will serve best the ends of justice and assist in improving opportunities for low-income persons consistent with the purposes of this Act;

(4) for many of our citizens, the availability of legal services has reaffirmed faith in our government and laws;

(5) to preserve its strength, the legal services program must be kept free from the influence of or use by it of political pressures; and

(6) attorneys providing legal assistance must have full freedom to protect the best interests of their clients in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession.

DEFINITIONS

SEC.1002. As used in this title, the term--

(1) `Board' means the Board of Directors of the Legal Services Corporation;

(2) `Corporation' means the Legal Services Corporation established under this title;

(3) `eligible client' means any person financially unable to afford legal assistance;

(4) `Governor' means the chief executive officer of a State;

(5) `legal assistance' means the provision of any legal services consistent with the purposes and provisions of this title;

(6) `recipient' means any grantee, contractee or recipient of financial assistance described in clause (A) of section 1006(a)(1);

(7) `staff attorney' means an attorney who receives more than one-half of his annual professional income from a recipient organized solely for the provision of legal assistance to eligible clients under this title; and

(8) `State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

ESTABLISHMENT OF CORPORATION

SEC.1003.(a). There is established in the District of Columbia a private nonmembership nonprofit corporation, which shall be known as the Legal Services Corporation, for the purpose of providing financial support for legal assistance in noncriminal proceedings or

matters to persons financially unable to afford legal assistance.

(b) The Corporation shall maintain its principal office in the District of Columbia and shall maintain therein a designated agent to accept service of process for the Corporation. Notice to or service upon the agent shall be deemed notice to or service upon the Corporation.

(c) The Corporation, and any legal assistance program assisted by the Corporation, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. If such treatments are conferred in accordance with the provision of such Code, the Corporation, and legal assistance programs assisted by the Corporation, shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation.

GOVERNING BODY

SEC. 1004(a) The Corporation shall have a Board of Directors consisting of eleven voting members appointed by the President, by and with the advice and consent of the Senate, no more than six of whom shall be of the same political party. A majority shall be members of the bar of the highest court of any State, and none shall be a full-time employee of the United States. Effective with respect to appointments made after the date of enactment of the Legal Services Corporation Act Amendments of 1977 but not later than July 31, 1978, the membership of the Board shall be appointed so as to include eligible clients, and to be generally representative of the organized bar, attorneys providing legal assistance to eligible clients, and the general public.

(b) The term of office of each member of the Board shall be three years, except that five of the members first appointed, as designated by the President at the time of appointment, shall serve for a term of two years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified. The term of initial members shall be computed from the date of the first meeting of the Board. The term of each member other than initial members shall be computed from the date of termination of the preceding term. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(c) The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States.

(d) The President shall select from among the voting members of the Board a chairman, who shall serve for a term of three years. Thereafter the Board shall annually elect a chairman from among its voting members.

(e) A member of the Board may be removed by a vote of seven members for malfeasance in office or for persistent neglect of or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause.

(f) Within six months after the first meeting of the Board, the Board shall request the Governor of each State to appoint a nine-member advisory council for such State. A majority of the members of the advisory council shall be appointed, after recommendations have been received from the State bar association, from among the attorneys admitted to practice in the State, and the membership of the council shall be subject to annual reappointment. If ninety days have elapsed without such an advisory council appointed by the Governor, the Board is authorized to appoint such a council. The advisory council shall be charged with notifying the Corporation of any apparent violation of the provisions of this title and applicable rules, regulations, and guidelines promulgated pursuant to this title. The advisory council shall, at the same time, furnish a copy of the notification to any recipient affected thereby, and the Corporation shall allow such recipient a reasonable time (but in no case less than thirty days) to reply to any allegation contained in the notification.

(g) All meetings of the Board, of any executive committee of the Board, and of any advisory council established in connection with this title shall be open and shall be subject to the requirements and provisions of section 552b of title 5, United States Code (relating to open meetings).

(h) The Board shall meet at least four times during each calendar year.

OFFICERS AND EMPLOYEES

SEC. 1005(a). The Board shall appoint the president of the Corporation, who shall be a member of the bar of the highest court of a State and shall be a non-voting ex officio member of the Board, and such other officers as the Board determines are necessary. No officer of the Corporations may receive any salary or other compensation for services from any source other than the Corporation during his period of employment by the Corporation, except as authorized by the Board. All officers shall serve at the pleasure of the Board.

(b)(1) The president of the Corporation, subject to general policies established by the Board, may appoint and remove such employees of the Corporation as he determines necessary to carry out the purposes of the Corporation.

(2) No political test or political qualification shall be used in selecting, appointing, promoting or taking any other personnel action with respect to any officer, agent, or employee of the Corporation or of any recipient, or in selecting or monitoring any grantee, contractor, or person or entity receiving financial assistance under this title.

(c) No member of the Board may participate in any decision, action, or recommendation

with respect to any matter which directly benefits such member or pertains specifically to any firm or organization with which such member is then associated or has been associated within a period of two years.

(d) Officers and employees of the Corporation shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(e)(1) Except as otherwise specifically provided in this title, officers and employees of the corporation shall not be considered officers or employees, and the Corporation shall not be considered a department, agency, or instrumentality, of the Federal Government.

(2) Nothing in this title shall be construed as limiting the authority of the Office of Management and Budget to review and submit comments upon the Corporation's annual budget request at the time it is transmitted to the Congress.

(f) Officers and employees of the Corporation shall be considered officers and employees of the Federal Government for purposes of the following provisions of title 5, United States Code: subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Corporation shall make contributions at the same rates applicable to agencies of the Federal Government under the provisions referred to in this subsection.

(g) The Corporation and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code (relating to freedom of information).

POWERS, DUTIES, AND LIMITATIONS

SEC. 1006(a). To the extent consistent with the provisions of this title, the Corporation shall exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (except for section 1005(o) of title 29 of the District of Columbia Code). In addition, the Corporation is authorized--

(1)(A) to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with--

(i) individuals, partnerships, firms, corporations, and nonprofit organizations, and

(ii) State and local governments (only upon application by an appropriate State or local agency or institution and upon a special determination by the Board that the arrangements to be made by such agency or institution will provide services which will not be provided adequately through nongovernmental arrangements), for the purpose of providing legal assistance to eligible clients under this title and

(B) to make such other grants and contracts as are necessary to carry out the purposes and provisions of this title;

(2) to accept in the name of the Corporation, and employ or dispose of in furtherance of the purposes of this title, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and

(3) to undertake directly, or by grant or contract, the following activities relating to the delivery of legal assistance--

(A) research, except that broad general legal or policy research unrelated to representation of eligible clients may not be undertaken by grant or contract.

(B) training and technical assistance, and

(C) to serve as a clearinghouse for information.

(b)(1)(A) The Corporation shall have the authority to insure the compliance of recipients and their employees with the provisions of this title and the rules, regulations, and guidelines promulgated pursuant to this title, and to terminate, after a hearing in accordance with section 1011, financial support to a recipient which fails to comply.

(1)(B) No question of whether representation is authorized under this title, or the rules, regulations or guidelines promulgated pursuant to this title, shall be considered in, or affect the final disposition of, any proceeding in which a person is represented by a recipient or an employee of a recipient. A litigant in such a proceeding may refer any such question to the Corporation which shall review and dispose of the question promptly, and take appropriate action. This subparagraph shall not preclude judicial review available under applicable law.

(2) If a recipient finds that any of its employees has violated or caused the recipient to violate the provisions of this title or the rules, regulations, and guidelines promulgated pursuant to this title, the recipient shall take appropriate remedial or disciplinary action in accordance with the types of procedures prescribed in the provisions of section 1011.

(3) The Corporation shall not, under any provision of this title, interfere with any attorney in carrying out his professional responsibilities to his client as established in the Canons of Ethics and the Code of Professional Responsibility of the American Bar Association (referred to collectively in this title as `professional responsibilities') or abrogate as to attorneys in programs assisted under this title the authority of a State or other jurisdiction to enforce the standards of professional responsibility generally applicable to attorneys in such jurisdiction. The Corporation shall ensure that activities under this title are carried out in a manner consistent with attorneys' professional responsibilities.

(4) No attorney shall receive any compensation, either directly or indirectly, for the provision of legal assistance under this title unless such attorney is admitted or otherwise authorized by law, rule, or regulation to practice law or provide such assistance in the jurisdiction where such assistance is initiated.

(5) The Corporation shall insure that (A) no employee of the Corporation or of any recipient (except as permitted by law in connection with such employee's own employment situation), while carrying out legal assistance activities under this title, engage in, or encourage others to engage in, any public demonstration or picketing, boycotting, or strike; and (B) no such employee shall, at any time, engage in, or encourage others to engage in, any of the following activities: (i) any rioting or civil disturbance, (ii) any activity which is in violation of an outstanding injunction of any court of competent jurisdiction, (iii) any other illegal activity, or (iv) any intentional identification of the Corporation or any recipient with any political activity prohibited by section 1007(a)(6). The Board, within ninety days after its first meeting, shall issue rules and regulations to provide for the enforcement of this paragraph and section 1007(a)(5), which rules shall include, among available remedies, provisions, in accordance with the types of procedures prescribed in the provisions of section 1011, for suspension of legal assistance supported under this title, suspension of an employee of the Corporation or of any employee of any recipient by such recipient, and, after consideration of other remedial measures and after a hearing in accordance with section 1011, the termination of such assistance or employment, as deemed appropriate for the violation in question.

(6) In areas where significant numbers of eligible clients speak a language other than English as their principal language, the Corporation shall, to the extent feasible, provide that their principal language is used in the provision of legal assistance to such clients under this title.

(c) The Corporation shall not itself--

(1) participate in litigation unless the Corporation or a recipient of the Corporation is a party, or a recipient is representing an eligible client in litigation in which the interpretation of this title or a regulation promulgated under this title is an issue, and shall not participate on behalf of any client other than itself; or

(2) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, except that personnel of the Corporation may testify or make other appropriate communication (A) when formally requested to do so by a legislative body, a committee, or a member thereof, or (B) in connection with legislation or appropriations directly affecting the activities of the Corporation.

(d)(1) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any ballot measures, initiatives, or referendums. However, an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal rights.

(5) No class action suit, class action appeal, or amicus curiae class action may be undertaken, directly or through others, by a staff attorney, except with the express approval of a project director of a recipient in accordance with policies established by the governing body of such recipient.

(6) Attorneys employed by a recipient shall be appointed to provide legal assistance without reasonable compensation only when such appointment is made pursuant to a statute, rule, or practice applied generally to attorneys practicing in the court where the appointment is made.

(e)(1) Employees of the Corporation or of recipients shall not at any time intentionally identify the Corporation or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

(2) Employees of the Corporation and staff attorneys shall be deemed to be State or local employees for purposes of chapter 15 of title 5, United States Code, except that no staff attorney may be a candidate in a partisan political election.

(f) In an action is commenced by the Corporation or by a recipient and a final order is entered in favor of the defendant and against the Corporation or a recipient's plaintiff, the court shall, upon motion by the defendant and upon a finding by the court that the action was commenced or pursued for the sole purpose of harassment of the defendant or that the Corporation or a recipient's plaintiff maliciously abused legal process, enter an order (which shall be appealable before being made final) awarding reasonable costs and legal fees incurred by the defendant in defense of the action, except when in contravention of a State law, a rule of court, or a statute of general applicability. Any such costs and fees shall be directly paid by the Corporation.

GRANTS AND CONTRACTS

SEC. 1007.(a) With respect to grants and contracts in connection with the provision of legal assistance to eligible clients under this title, the Corporation shall--

(1) insure the maintenance of the highest quality of service and professional standards, the preservation of attorney-client relationships, and the protection of integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients;

(2)(A) establish, in consultation with the Director of the Office of Management and Budget and with the Governors of the several states, maximum income levels (taking into account family size, urban and rural differences, and substantial cost-of-living variations) for individuals eligible for legal assistance under this title;

(B) establish guidelines to insure that eligibility of clients will be determined by recipients on the basis of factors which include-

(i) the liquid assets and income level of the client,

(ii) The fixed debts, medical expenses, and other factors which affect the client's ability to pay,

(iii) the cost of living in the locality, and,

(iv) such other factors as relate to financial inability to afford legal assistance, which may include evidence of a prior determination that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an employment situation; and

(C) insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assistance, taking into account the relative needs of eligible clients for such assistance (including such outreach, training, and support services as may be necessary), including particularly the needs for service on the part of significant segments of the population with eligible clients with special difficulties of access to legal services or special legal problems (including elderly and handicapped individuals); and (ii) appropriate training and support services are provided in order to provide such assistance to such significant segments of the population of eligible clients;

(3) insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas:

(4) insure that attorneys employed full time in legal assistance activities supported in major part by the Corporation refrain from (A) any compensated outside practice of law, and (B) any uncompensated outside practice of law except as authorized in guidelines promulgated by the Corporation;

(5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, or State proposals by initiative petition, except where--

(A) representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or

(B) a governmental agency, legislative body, a committee, or a member thereof--

(i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or

(ii) is considering a measure directly affecting the activities under this title of the recipient or the Corporation.

(6) insure that all attorneys engaged in legal assistance activities supported in whole or in part by the Corporation refrain, while so engaged, from--

(A) any political activity, or

(B) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election (other than legal advice and representation), or

(C) any voter registration activity (other than legal advice and representation);

(7) require recipients to establish guidelines, consistent with regulations promulgated by the Corporation, for a system for review of appeals to insure the efficient utilization of resources and to avoid frivolous appeals (except that such guidelines or regulations shall in no way interfere with attorneys' professional responsibilities);

(8) insure that recipients solicit the recommendations of the organized bar in the community being served before filling staff attorney positions in any project funded pursuant to this title and give preference in filling such positions to qualified persons who reside in the community to be served;

(9) insure that every grantee, contractor or person or entity receiving financial assistance under this title or predecessor authority under this Act which files with the Corporation a timely application for refunding is provided interim funding necessary to maintain its current level of activities until (A) the application for refunding has been approved and funds pursuant thereto received, or (B) the application for refunding has been finally denied in accordance with section 1011 of this Act;

(10) insure that all attorneys, while engaged in legal assistance activities supported in whole or in part by the Corporation, refrain from the persistent incitement of litigation and any other activity prohibited by the Canons of Ethics and Code of Professional Responsibility of the American Bar Association, and insure that such attorneys refrain from personal representation for a private fee in any cases in which they were involved while engaged in such legal assistance activities and;

(11) ensure that an indigent individual whose primary residence is subject to civil forfeiture is represented by an attorney for the Corporation in such civil action.

(b) No funds made available by the Corporation under this title, either by grant or contract, may be used--

(1) to provide legal assistance (except in accordance with guidelines promulgated by the Corporation) with respect to any fee-generating case (which guidelines shall not preclude the provision of legal assistance in cases in which a client seeks only statutory benefits and appropriate private representation is not available);

(2) to provide legal assistance with respect to any criminal proceeding, except to provide assistance to a person charged with an offense in an Indian tribal court;

(3) to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act and the action is brought against an officer of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction;

(4) for any of the political activities prohibited in paragraph (6) of subsection (a) of this section;

(5) to make grants to or enter into contracts with any private law firm which expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public;

(6) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;

(7) to initiate the formation, or act as an organizer, of any association, federation, or similar entity, except that this paragraph shall not be construed to prohibit the provision of legal assistance to eligible clients;

(8) to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution;

(9) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the provision of legal advice to eligible clients with respect to such clients's legal rights and responsibilities;

(10) to provide legal assistance with respect to any proceeding or litigation arising out of violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that he was improperly classified prior to July 1, 1973 under the Military Selective Service Act or prior corresponding law or;

(11) to provide legal assistance in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1977.

(c) In making grants or entering into contracts for legal assistance, the Corporation shall insure that any recipient organized solely for the purpose of providing legal assistance to eligible clients is governed by a body at least 60 percent of which consists of attorneys who are members of the bar of a State in which the legal assistance is to be provided (except that the Corporation (1) shall, upon application, grant waivers to permit a legal services program, supported under Section 222(a)(3) of the Economic Opportunity Act of 1964, which on the date of enactment of this title has a majority of persons who are not attorneys on its policy-making board to continue such a non-attorney majority under the provisions of this title, and (2) may grant, pursuant to regulations issued by the Corporation, such a waiver for recipients which, because of the nature of the population they serve, are unable to comply with such requirement) and at least one-third of which consists of persons who

are, when selected, eligible clients who may also be representatives of associations or organizations of eligible clients. Any such attorney, while serving on such board, shall not receive compensation from a recipient.

(d) The Corporation shall monitor and evaluate and provide for independent evaluations of programs supported in whole or in part under this title to insure that the provisions of this title and by bylaws of the Corporation and applicable rules, regulations, and guidelines promulgated pursuant to this title are carried out.

(e) The president of the Corporation is authorized to make grants and enter into contracts under this title.

(f) At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor, the State bar association of any State, and the principal bar associations (if there be any) of any community, where legal assistance will thereby be initiated, of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

(g) The Corporation shall provide for comprehensive, independent study of the existing staff-attorney program under this Act and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress, not later than two years after the first meeting of the Board, concerning improvements, changes, or alternative methods for the economical and effective delivery of such services.

(h) The Corporation shall conduct a study on whether eligible clients who are--

(1) veterans,

(2) native Americans,

(3) migrants or seasonal farm workers,

(4) persons with limited English-speaking abilities, and,

(5) persons in sparsely populated areas where a harsh climate and an inadequate transportation system are significant impediments to receipt of legal services

have special difficulties of access to legal services or special legal problems which are not being met. The Corporation shall report to Congress no later than January 1, 1979, on the extent and nature of any such problems and difficulties and shall include in the report and implement appropriate recommendations.

RECORDS AND REPORTS

SEC. 1008.(a) The Corporation is authorized to require such reports as it deems necessary from any grantee, contractor or person or entity receiving financial assistance under this title regarding activities carried out pursuant to this title.

(b) The Corporation is authorized to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract or the terms and conditions upon which financial assistance was provided.

(c) The Corporation shall publish an annual report which shall be filed by the Corporation with the President and the Congress. Such report shall include a description of services provided pursuant to section 1007(a)(2)(C)(i) and (ii).

[Section 1008(c), 2996g(c), regarding annual reports ceased to be effective as of December 21, 1999, pursuant to section 3003 of the Federal Reports Elimination and Sunset Act, Pub. L. 104-66, 109 Stat. 707 (1995).]

(d) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any grantee, contractor, or person or entity receiving financial assistance under this title shall be submitted on a timely basis to such grantee, contractor, or person or entity, and shall be maintained in the principal office of the Corporation for a period of at least five years subsequent to such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Corporation may establish.

(e) The Corporation shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, and guidelines, and it shall publish in the Federal Register at least 30 days prior to their effective date all its rules, regulations, guidelines and instructions.

AUDITS

SEC. 1009.(a)(1) The accounts of the Corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation an necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at he principal office of the Corporation.

(b)(1) In addition to the annual audit, the financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audit; and full facilities for verifying transactions with the balances and securities help by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Corporation shall remain in the possession and custody of the Corporation throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, papers, or property for a longer period of under section 117(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b)).

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the President, together with such recommendations with respect thereto as he shall deem advisable.

(c)(1) The Corporation shall conduct, or require each grantee, contractor, or person or entity receiving financial assistance under this title to provide for, an annual financial audit. The report of each audit shall be maintained for a period of at least five years at the principal office of the Corporation.

(2) The Corporation shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee,

contractor, or person or entity which relate to the disposition or use of funds received from the corporation. Such audit reports shall be available for public inspection, during regular business hours, at the principal office of the Corporation.

(d) Notwithstanding the provisions of this section or section 1008, neither the Corporation nor the Comptroller General shall have access to any reports or records subject to attorney-client privilege.

FINANCING

SEC.1010.(a) There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation, \$90,000,000 for fiscal year 1975, \$100,000,000 for fiscal year 1976, and such sums as may be necessary for fiscal year 1977. There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation \$205,000,000 for the fiscal year 1978, and such sums as may be necessary for each of the two succeeding fiscal years. The first appropriation may be made available to the Corporation at any time after six or more members of the Board have been appointed and qualified. Appropriations for that purpose shall be made for not more than two fiscal years, and shall be paid to the Corporation in annual installments at the beginning of each fiscal year in such amounts as may be specified in Acts of Congress making appropriations.

(b) funds appropriated pursuant to this section shall remain available until expended.

(c) Non-Federal funds received by the Corporation, and funds received by any recipient from a source other than the Corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds; but any funds so received for the provision of legal assistance shall not be expended by recipients for any purpose prohibited by this title, except that this provision shall not be construed to prevent recipients from receiving other public funds or tribal funds (including foundation funds benefiting Indians or Indian tribes) and expending them in accordance with the purposes for which they are provided, or to prevent contracting or making other arrangements with private attorneys, private law firms, or other State or local entities of attorneys, or with legal aid societies having separate public defender programs, for the provision of legal assistance to eligible clients under this title.

(d) Not more than 10 percent of the amounts appropriated pursuant to subsection (a) of this section for any fiscal year shall be available for grants and contracts under section 1006(a)(3) in any such year.

SPECIAL LIMITATIONS

SEC.1011. The Corporation shall prescribe procedures to insure that--

(1) financial assistance under this title shall not be suspended unless the grantee, contractor, or person or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such action should not be taken, and

(2) financial assistance under this title shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this title has been afforded reasonable notice and opportunity for a

timely, full, and fair hearing, and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Corporation to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation.

COORDINATION

SEC.1012. The President may direct that appropriate support functions of the Federal Government may be made available to the Corporation in carrying out its activities under this title, to the extent not inconsistent with other applicable law.

RIGHT TO REPEAL, ALTER, OR AMEND

SEC.1013. The right to repeal, alter or amend this title at any time is expressly reserved.

SHORT TITLE

SEC.1014. This title may be cited as the 'Legal Services Corporation Act.'

TRANSITION PROVISIONS

SEC.3.(a). Notwithstanding any other provisions of law, effective ninety days after the date of the first meeting of the Board of Directors of the Legal Services Corporation established under the Legal Services Corporation Act (title X of the Economic Opportunity Act of 1964, as added by this Act), the Legal Services Corporation shall succeed to all rights of the Federal Government to capital equipment in the possession of legal services programs or activities assisted pursuant to section 222(a)(3), 230, 232, or any other provision of the Economic Opportunity Act of 1964.

(b) Within ninety days after the first meeting of the Board, all assets, liabilities, obligations, property, and records as determined by the Director of the Office of Management and Budget, in consultation with the Director of the Office of Economic Opportunity or the head of any successor authority, to be employed directly or held or used primarily, in connection with any function of the Director of the Office of Economic Opportunity or the head of any

successor authority in carrying out legal services activities under the Economic Opportunity Act of 1964, shall be transferred to the Corporation. Personnel transferred to the Corporation from the Office of Economic Opportunity or any successor authority shall be transferred in accordance with applicable laws and regulations, and shall not be reduced in compensation for one year after such transfer, except for cause. The Director of the Office of Economic Opportunity or the head of any successor authority shall take whatever action is necessary and reasonable to seek suitable employment for personnel who do not transfer to the Corporation.

(c) Collective-bargaining agreements in effect on the date of enactment of this Act covering employees transferred to the Corporation shall continue to be recognized by the Corporation until the termination date of such agreements, or until mutually modified by the parties.

(d)(1) Notwithstanding any other provision of law, the Director of the Office of Economic Opportunity or the head of any successor authority shall take such action as may be necessary, in cooperation with the president of the Legal Services Corporation, including the provision (by grant or otherwise) of financial assistance to recipients and the Corporation and the furnishing of services and facilities to the Corporation--

(A) to assist the Corporation in preparing to undertake, and in the initial undertaking of, its responsibilities under this title;

(B) out of appropriations available to him, to make funds available to meet the organizational and administrative expenses of the Corporation;

(C) within ninety days after the first meeting of the Board, to transfer to the Corporation all unexpended balances of funds appropriated for the purpose of carrying out legal services programs and activities under the Economic Opportunity Act of 1964 or successor authority; and

(D) to arrange for the orderly continuation by such Corporation of financial assistance to legal services programs and activities assisted pursuant to the Economic Opportunity Act of 1964 or successor authority.

Whenever the Director of the Office of Economic Opportunity or the head of any successor authority determines that an obligation to provide financial assistance pursuant to any contract or grant for such legal services will extend beyond six months after the date of enactment of this Act, he shall include, in any such contract or grant, provisions to assure that the obligation to provide such financial assistance may be assumed by the Legal Services Corporation, subject to such modifications of the terms and conditions of such contract or grant as the Corporation determines to be necessary.

(2) Section 222(a)(3) of the Economic Opportunity Act of 1964 is repealed, effective ninety

days after the first meeting of the Board of Directors of the Legal Services Corporation.

(e) There are authorized to be appropriated for the fiscal year ending June 30, 1975, such sums as may be necessary for carrying out this section.

(f) Title VI of the Economic Opportunity Act of 1964 is amended by inserting after section 625 thereof the following new section:

INDEPENDENCE OF LEGAL SERVICES CORPORATION

SEC.626. Nothing in this Act, except title X, and no reference to this Act, unless such reference refers to title X, shall be construed to affect the powers and activities of the Legal Services Corporation.

Approved July 25, 1974.



CODE OF FEDERAL REGULATIONS

Title 45

Public Welfare

Part 1600 to 1644

Revised as of May 1, 2018

Containing a codification of documents
of general applicability and future effect

Published by the Office of the Federal Register
National Archives and Records Administration
as a Special Edition of the Federal Register



U.S. GOVERNMENT OFFICIAL EDITION NOTICE

Legal Status and Use of Seals and Logos



The seal of the National Archives and Records Administration (NARA) authenticates the Code of Federal Regulations (CFR) as the official codification of Federal regulations established under the Federal Register Act. Under the provisions of 44 U.S.C. 1507, the contents of the CFR, a special edition of the Federal Register, shall be judicially noticed. The CFR is prima facie evidence of the original documents published in the Federal Register (44 U.S.C. 1510).

It is prohibited to use NARA's official seal and the stylized Code of Federal Regulations logo on any republication of this material without the express, written permission of the Archivist of the United States or the Archivist's designee. Any person using NARA's official seals and logos in a manner inconsistent with the provisions of 36 CFR part 1200 is subject to the penalties specified in 18 U.S.C. 506, 701, and 1017.

Use of ISBN Prefix

This is the Official U.S. Government edition of this publication and is herein identified to certify its authenticity. Use of the 0-16 ISBN prefix is for U.S. Government Publishing Office Official Editions only. The Superintendent of Documents of the U.S. Government Publishing Office requests that any reprinted edition clearly be labeled as a copy of the authentic work with a new ISBN.



U.S. GOVERNMENT PUBLISHING OFFICE

U.S. Superintendent of Documents • Washington, DC 20402-0001

<http://bookstore.gpo.gov>

Phone: toll-free (866) 512-1800; DC area (202) 512-1800

CHAPTER XVI—LEGAL SERVICES CORPORATION

<i>Part</i>		<i>Page</i>
1600	Definitions	415
1601	[Reserved]	
1602	Procedures for disclosure of information under the Freedom of Information Act	416
1603	Requests for Documents and Testimony.....	427
1604	Outside practice of law	429
1605	Appeals on behalf of clients	430
1606	Termination, limited reduction of funding, and de- barment procedures; recompetition	431
1607	Governing bodies	438
1608	Prohibited political activities	441
1609	Fee-generating cases	442
1610	Use of non-LSC funds, transfers of LSC funds, pro- gram integrity	443
1611	Financial eligibility	446
1612	Restrictions on lobbying and certain other activi- ties	451
1613	Restrictions on legal assistance with respect to criminal proceedings	454
1614	Private attorney involvement	455
1615	Restrictions on actions collaterally attacking criminal convictions	463
1616	Attorney hiring	463
1617	Class actions	464
1618	Enforcement procedures	465
1619	Disclosure of information	466
1620	Priorities in use of resources	466
1621	Client grievance procedures	468
1622	Public access to meetings under the Government in the Sunshine Act	469
1623	Suspension procedures	473
1624	Prohibition against discrimination on the basis of disability	475
1625	[Reserved]	
1626	Restrictions on legal assistance to aliens	479
1627	Subgrants	484

45 CFR Ch. XVI (10–1–17 Edition)

<i>Part</i>		<i>Page</i>
1628	Recipient fund balances	488
1629	Bonding requirements for recipients	490
1630	Cost standards and procedures	491
1631	Purchasing and property management (Eff. 12-31-17)	497
1632	Redistricting	502
1633	Restriction on representation in certain eviction proceedings	509
1634	Competitive bidding for grants and contracts	510
1635	Timekeeping requirement	511
1636	Client identity and statement of facts	515
1637	Representation of prisoners	516
1638	Restriction on solicitation	517
1639	Welfare reform	518
1640	Application of Federal law to LSC recipients	519
1641	Debarment, suspension and removal of recipient auditors	520
1642	[Reserved]	
1643	Restriction on assisted suicide, euthanasia, and mercy killing	521
1644	Disclosure of case information	529
1645–1699	[Reserved]	

PART 1600—DEFINITIONS

AUTHORITY: 42 U.S.C. 2996.

EFFECTIVE DATE NOTE: At 82 FR 37337, Aug. 10, 2017, the authority citation for part 1600 was revised, effective Dec. 31, 2017. For the convenience of the user, the revised text is set forth as follows:

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

§ 1600.1 Definitions.

As used in these regulations, chapter XVI, unless otherwise indicated, the term—

Act means the Legal Services Corporation Act, Pub. L. 93-355 (1974), as amended, Pub. L. 95-222 (1977), 42 U.S.C. 2996-29961.

Appeal means any appellate proceeding in a civil action as defined by law or usage in the jurisdiction in which the action is filed.

Attorney means a person who provides legal assistance to eligible clients and who is authorized to practice law in the jurisdiction where assistance is rendered.

Control means the direct or indirect ability to determine the direction of management and policies or to influence the management or operating policies of another organization to the extent that an arm's-length transaction may not be achieved.

Corporation means the Legal Services Corporation established under the Act.

Corporation funds or LSC funds means any funds appropriated to LSC by Congress to carry out the purposes of the Legal Services Corporation Act of 1974, 42 U.S.C. 2996 et seq., as amended.

Director of a recipient means a person directly employed by a recipient in an executive capacity who has overall day-to-day responsibility for management of operations by a recipient.

Eligible client means any person determined to be eligible for legal assistance under the Act, these regulations or other applicable law.

Employee means a person employed by the Corporation or by a recipient, or a person employed by a subrecipient whose salary is paid in whole or in major part with funds provided by the Corporation.

Fee generating case means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client from public funds or from an opposing party.

Financial assistance means annualized funding from the Corporation granted under section 1006(a)(1)(A) for the direct delivery of legal assistance to eligible clients.

Legal assistance means the provisions of any legal services consistent with the purposes and provisions of the Act or other applicable law.

Non-LSC funds means any funds that are not Corporation funds or LSC funds.

Outside practice of law means the provisions of legal assistance to a client who is not eligible to receive legal assistance from the employer of the attorney rendering assistance, but does not include, among other activities, teaching, consulting, or performing evaluations.

Political means that which relates to engendering public support for or opposition to candidates for public office, ballot measures, or political parties, and would include publicity or propaganda used for that purpose.

President means the President of the Corporation.

Public funds means the funds received directly or indirectly from the Corporation or a Federal, State, or local government or instrumentality of a government.

Recipient means any grantee or contractor receiving financial assistance from the Corporation under section 1006(a)(1)(A) of the Act.

Staff attorney means an attorney more than one half of whose annual professional income is derived from the proceeds of a grant from the Legal Services Corporation or is received from a recipient, subrecipient, grantee, or contractor that limits its activities to providing legal assistance to clients eligible for assistance under the Act.

Tribal funds means funds received from an Indian tribe or from a private foundation for the benefit of an Indian tribe.

[49 FR 21327, May 21, 1984, as amended at 51 FR 24827, July 9, 1986 and at 82 FR 37337, Aug. 10, 2017]

PART 1601 [RESERVED]**PART 1602—PROCEDURES FOR DISCLOSURE OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT**

Sec.	
1602.1	Purpose.
1602.2	Definitions.
1602.3	Policy.
1602.4	Records published in the Federal Register.
1602.5	Public reading room.
1602.6	Procedures for use of public reading room.
1602.7	Index of records.
1602.8	Requests for records.
1602.9	Timing and responses to requests for records.
1602.10	Exemptions for withholding records.
1602.11	Officials authorized to grant or deny requests for records.
1602.12	Denials.
1602.13	Appeals of denials.
1602.14	Fees.
1602.15	Submitter's rights process.

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

SOURCE: 81 FR 91039, Dec. 16, 2016, unless otherwise noted.

§ 1602.1 Purpose.

This part contains the rules and procedures the Legal Services Corporation (LSC) follows in making records available to the public under the Freedom of Information Act.

§ 1602.2 Definitions.

(a) *Commercial use request* means a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, LSC will look to the use to

which a requester will put the documents requested. When LSC has reasonable cause to doubt the requester's stated use of the records sought, or where the use is not clear from the request itself, it will seek additional clarification before assigning the request to a category.

(b) *Confidential commercial information* means records provided to LSC by a submitter that arguably contain material exempt from release under Exemption 4 of the FOIA, 5 U.S.C. 552(b)(4).

(c) *Duplication* means the process of making a copy of a requested record pursuant to this part in a form appropriate for release in response to a FOIA request.

(d) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, or an institution of professional or vocational education which operates a program or programs of scholarly research.

(e) *FOIA* means the Freedom of Information Act, 5 U.S.C. 552.

(f) *LSC* means the Legal Services Corporation. Unless explicitly stated otherwise, LSC includes the Office of Inspector General.

(g) *Non-commercial scientific institution* means an institution that is not operated on a commercial basis and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(h) *Office* refers to the Office of Legal Affairs and/or the Office of Inspector General (OIG).

(i) *Person* includes an individual, partnership, corporation, association, or public or private organization other than LSC or a Federal agency.

(j) *Records* are any type of information made or received by LSC or the OIG for purposes of transacting LSC or OIG business and preserved by LSC or the OIG (either directly or maintained by a third party under contract to LSC or the OIG for records management purposes) regardless of form (*e.g.*, paper or electronic, formal or informal, copies or original) as evidence of LSC's or OIG's organization, functions, policies, decisions, procedures, operations, or

Legal Services Corporation

§ 1602.5

other activities of LSC or the OIG or because the record has informational value.

(k) *Representative of the news media* means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term “news” means information that is about current events or that would be of current interest to the public. Examples of news media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of “news”) who make their products available for purchase or subscription or by free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news media entities. A freelance journalist shall be regarded as working for a news media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation. LSC may also consider the past publication record of the requester in making such a determination.

(l) *Review* means the process of examining documents located in response to a request to determine whether any portion of any such document is exempt from disclosure. It also includes processing any such documents for disclosure. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(m) *Rule* means the whole or a part of an LSC statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of LSC.

(n) *Search* means the process of looking for and retrieving records that are

responsive to a request for records. It includes page-by-page or line-by-line identification of material within documents and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. Searches may be conducted manually or by automated means and will be conducted in the most efficient and least expensive manner.

(o) *Submitter* means any person or applicant for funds who provides confidential commercial information to LSC.

§ 1602.3 Policy.

LSC will make records concerning its operations, activities, and business available to the public to the maximum extent reasonably possible. LSC will withhold records from the public only in accordance with the FOIA and this part. LSC will disclose records otherwise exempt from disclosure under the FOIA when LSC does not reasonably foresee that disclosure would harm an interest protected by an exemption and disclosure is not prohibited by law or protected under Exemption 3.

§ 1602.4 Records published in the Federal Register.

LSC routinely publishes in the FEDERAL REGISTER information on its basic structure and operations necessary to inform the public how to deal effectively with LSC. LSC will make reasonable efforts to currently update such information, which will include basic information on LSC’s location, functions, rules of procedure, substantive rules, statements of general policy, and information regarding how the public may obtain information, make submittals or requests, or obtain decisions.

§ 1602.5 Public reading room.

(a) LSC will maintain a public reading room at its offices at 3333 K St. NW., Washington, DC 20007. This room will be supervised and will be open to the public during LSC’s regular business hours. Procedures for use of the public reading room are described in §1602.6. LSC also maintains an electronic public reading room that may be

§ 1602.6

accessed at <http://www.lsc.gov/about-lsc/foia/foia-electronic-public-reading-room>.

(b) Subject to the limitation stated in paragraph (c) of this section, LSC will make available for public inspection in its electronic public reading room the records described in 5 U.S.C. 552(a)(2).

(c) Records required by FOIA to be available in the public reading room may be exempt from mandatory disclosure pursuant to 5 U.S.C. 552(b). LSC will not make such records available in the public reading room. LSC may edit other records maintained in the reading room by redacting details about individuals to prevent clearly unwarranted invasions of personal privacy. In such cases, LSC will attach a full explanation of the redactions to the record. LSC will indicate the extent of the redactions unless doing so would harm an interest protected by the exemption under which the redactions are made. If technically feasible, LSC will indicate the extent of the redactions at the place in the record where the redactions were made.

§ 1602.6 Procedures for use of public reading room.

(a) A person who wishes to inspect or copy records in the public reading room should arrange a time in advance, by telephone or letter request made to the Office of Legal Affairs, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007 or by email to FOIA@lsc.gov.

(1) In appropriate circumstances, LSC will advise persons making telephonic requests to use the public reading room that a written request would aid in the identification and expeditious processing of the records sought.

(2) Written requests should identify the records sought in the manner provided in §1602.8(b) and should request a specific date for inspecting the records.

(b) LSC will advise the requester as promptly as possible if, for any reason, it is not feasible to make the records sought available on the date requested.

(c) A computer terminal and printer are available upon request in the public reading room for accessing Electronic Reading Room records.

45 CFR Ch. XVI (10–1–17 Edition)

§ 1602.7 Index of records.

LSC will maintain and make available for public inspection in an electronic format a current index identifying any matter within the scope of §1602.4 and §1602.5(b).

§ 1602.8 Requests for records.

(a) LSC will make its records promptly available, upon request, to any person in accordance with this section, unless:

(1) the FOIA requires the records to be published in the FEDERAL REGISTER (§1602.4) or to be made available in the public reading room (§1602.5); or

(2) LSC determines that such records should be withheld and are exempt from mandatory disclosure under the FOIA and §1602.10.

(b)(1) *Requests for LSC records.* All requests for LSC records must be clearly marked Freedom of Information Act Request and shall be addressed to the FOIA Analyst, Office of Legal Affairs, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007. Email requests shall be sent to FOIA@lsc.gov. Requests for LSC Records may also be made online using the FOIA Request Electronic Submission Form located at <http://www.lsc.gov/about-lsc/foia>.

(2) *Requests for Office of Inspector General records.* All requests for records maintained by the OIG must be clearly marked Freedom of Information Act Request and shall be addressed to the FOIA Officer, Office of Inspector General, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007. Email requests shall be sent to FOIA@oig.lsc.gov.

(3) Any request not marked and addressed as specified in this section will be so marked by LSC personnel as soon as it is properly identified, and will be forwarded immediately to the appropriate Office. A request improperly addressed will be deemed to have been received as in accordance with §1602.9 only when it has been received by the appropriate Office. Upon receipt of an improperly addressed request, the Chief FOIA Officer, Office of Inspector General Legal Counsel or their designees shall notify the requester of the date on which the time period began.

Legal Services Corporation

§ 1602.9

(c) A request must reasonably describe the records requested so that employees of LSC who are familiar with the subject area of the request are able, with a reasonable amount of effort, to determine which particular records are within the scope of the request. Before submitting their requests, requesters may contact LSC's or OIG's FOIA Analyst or FOIA Public Liaison to discuss the records they seek and to receive assistance in describing the records. If LSC determines that a request does not reasonably describe the records sought, LSC will inform the requester what additional information is needed or why the request is otherwise insufficient. Requesters who are attempting to reformulate or modify their request may discuss their request with LSC's or OIG's FOIA Analyst or FOIA Public Liaison. If a request does not reasonably describe the records sought, LSC's response to the request may be delayed.

(d) To facilitate the location of records by LSC, a requester should try to provide the following kinds of information, if known:

- (1) The specific event or action to which the record refers;
- (2) The unit or program of LSC that may be responsible for or may have produced the record;
- (3) The date of the record or the date or period to which it refers or relates;
- (4) The type of record, such as an application, a grant, a contract, or a report;
- (5) Personnel of LSC who may have prepared or have knowledge of the record;
- (6) Citations to newspapers or publications which have referred to the record.

(e) Requests may specify the preferred form or format (including electronic formats) for the records sought. LSC will provide records in the form or format indicated by the requester to the extent such records are readily reproducible in the requested form or format. LSC reserves the right to limit the number of copies of any document that will be provided to any one requester or to require that special arrangements for duplication be made in the case of bound volumes or other

records representing unusual problems of handling or reproduction.

(f) Requesters must provide contact information, such as their phone number, email address, and/or mailing address, to assist LSC in communicating with them and providing released records.

(g) LSC is not required to create a record or to perform research to satisfy a request.

(h) Any request for a waiver or reduction of fees should be included in the FOIA request, and any such request should indicate the grounds for a waiver or reduction of fees, as set out in §1602.14(g).

§ 1602.9 Timing and responses to requests for records.

(a)(1) Upon receiving a request for LSC or Inspector General records under §1602.8, the Chief FOIA Officer, Office of Inspector General Legal Counsel or their designees shall make an initial determination of whether to comply with or deny such request. The Chief FOIA Officer, Office of Inspector General Legal Counsel or their designees will send the determination to the requester within 20 business days after receipt of the request and will notify the requester of their right to seek assistance from an LSC FOIA Public Liaison.

(2) The 20-day period under paragraph (a)(1) of this section shall commence on the date on which the request is first received by the appropriate Office, but in no event later than 10 working days after the request has been received by either the Office of Legal Affairs or the Office of Inspector General. The 20-day period shall not be tolled by the Office processing the request except that the processing Office may make one request to the requester for information pursuant to paragraph (b) of this section and toll the 20-day period while

(i) It is awaiting such information that it has reasonably requested from the requester under this section; or

(ii) It communicates with the requester to clarify issues regarding fee assessment.

In either case, the processing Office's receipt of the requester's response to such a request for information or clarification ends the tolling period.

(b) *Consultation.* When records originated with the Office processing the request, but contain within them information of interest to another Office or Federal agency, the Office processing the request should typically consult with that other entity prior to making a release determination.

(c) *Referral.* (1) If the processing Office determines that the other Office or Federal agency is best able to determine whether to disclose the record, the processing Office will typically refer the responsibility for responding to the request for that record to the other Office or Federal agency. Ordinarily, the Office that originated the record is presumed to be the best Office to make the disclosure determination. However, if the Offices or Federal agency jointly agree that the processing Office is in the best position to respond regarding the record, then the record may be released by the processing Office after consultation with the other Office or Federal agency.

(2) Whenever a referral occurs, the processing Office must document the referral, maintain a copy of the record that it refers, and notify the requester of the referral, informing the requester of the name(s) of the Office or Federal agency to which the record was referred, including that Office's or Federal agency's FOIA contact information.

(d)(1) In unusual circumstances, as specified in paragraph (d)(3) of this section, LSC may extend the time limit for up to 10 working days by written notice to the requester setting forth the reasons for such extension and the date on which LSC expects to send its determination.

(2) LSC may also provide an opportunity to the requester to narrow the request. In addition, to aid the requester, LSC shall make available a FOIA Public Liaison, who shall assist in the resolution of any disputes between the requester and LSC, and shall notify the requester of his right to seek dispute resolution services from the U.S. National Archives and Records Administration's Office of Government Information Services.

(3) *Unusual circumstances.* As used in this part, *unusual circumstances* are limited to the following, but only to

the extent reasonably necessary for the proper processing of the particular request:

(i) The need to search for and collect the requested records from establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another Office, Federal agency, or organization having a substantial interest in the determination of the request.

(c)(1) When the processing Office cannot send a determination to the requester within the applicable time limit, the Chief FOIA Officer, Office of the Inspector General Legal Counsel, or their designees shall inform the requester of the reason for the delay, the date on which the processing Office expects to send its determination, and the requester's right to treat the delay as a denial and to appeal to LSC's President or Inspector General, in accordance with §1602.13, or to seek dispute resolution services from a FOIA Public Liaison or the Office of Government Information Services.

(2) If the processing Office has not sent its determination by the end of the 20-day period or the last extension thereof, the requester may deem the request denied, and exercise a right of appeal in accordance with §1602.13, or seek dispute resolution services from LSC's or OIG's FOIA Public Liaison or the National Archives and Records Administration's Office of Government Information Services. The Chief FOIA Officer, Office of Inspector General Legal Counsel, or their designees may ask the requester to forego appeal until a determination is made.

(d) After the processing Office determines that a request will be granted, LSC or the OIG will act with due diligence in providing a substantive response.

(e)(1) *Expedited treatment.* Requests and appeals will be taken out of order and given expedited treatment whenever the requester demonstrates a compelling need. A compelling need means:

Legal Services Corporation

§ 1602.10

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged LSC activity and the request is made by a person primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest raising questions about LSC's integrity which may affect public confidence in LSC.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time. For a prompt determination, a request for expedited processing must be properly addressed and marked and received by LSC pursuant to §1602.8.

(3) A requester who seeks expedited processing must submit a statement demonstrating a compelling need and explaining in detail the basis for requesting expedited processing. The requester must certify that the statement is true and correct to the best of the requester's knowledge and belief.

(4) Within 10 calendar days of receiving a request for expedited processing, the Chief FOIA Officer, Office of Inspector General Legal Counsel or their designees shall decide whether to grant the request and shall notify the requester of the decision. If a request for expedited treatment is granted, the request shall be given priority and shall be processed as soon as practicable. If a request for expedited processing is denied, the requester may appeal in writing to LSC's President or Inspector General in the format described in §1602.13(a). Any appeal of a denial for expedited treatment shall be acted on expeditiously by LSC.

§1602.10 Exemptions for withholding records.

(a) LSC shall—

(1) Withhold information under this section only if—

(i) LSC reasonably foresees that disclosure would harm an interest protected by an exemption described in paragraph (b); or

(ii) Disclosure is prohibited by law; and

(2)(i) Consider whether partial disclosure of information is possible whenever LSC determines that a full disclosure of a requested record is not possible; and

(ii) Take reasonable steps necessary to segregate and release nonexempt information;

(b) LSC may withhold a requested record from public disclosure only if one or more of the following exemptions authorized by the FOIA apply:

(1)(i) Matter that is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and

(ii) Is in fact properly classified pursuant to such Executive Order;

(2) Matter that is related solely to the internal personnel rules and practices of LSC;

(3) Matter that is specifically exempted from disclosure by statute (other than the exemptions under FOIA at 5 U.S.C. 552(b)), provided that such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding, or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memoranda or letters that would not be available by law to a party other than an agency in litigation with LSC, provided that the deliberative process privilege shall not apply to records created 25 years or more before the date on which the records were requested;

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, including enforcing the Legal Services Corporation Act or any other law, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

§ 1602.11

(ii) Would deprive a person or a recipient of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution that furnished information on a confidential basis, and in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Matter that is contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(c) In the event that one or more of the exemptions in paragraph (b) of this section applies, any reasonably segregable portion of a record shall be provided to the requester after redaction of the exempt portions. The amount of information redacted and the exemption under which the redaction is being made shall be indicated on the released portion of the record, unless doing so would harm the interest protected by the exemption under which the redaction is made. If technically feasible, the amount of information redacted and the exemption under which the redaction is being made shall be indicated at the place in the record where the redaction occurs.

(d) No requester shall have a right to insist that any or all of the techniques in paragraph (c) of this section should

45 CFR Ch. XVI (10–1–17 Edition)

be employed in order to satisfy a request.

(e) Records that may be exempt from disclosure pursuant to paragraph (b) of this section may be made available at the discretion of the LSC official authorized to grant or deny the request for records, after appropriate consultation as provided in §1602.11. LSC will disclose records otherwise exempt from disclosure under the FOIA when LSC does not reasonably foresee that disclosure would harm an interest protected by an exemption and disclosure is not prohibited by law or protected under Exemption 3.

§ 1602.11 Officials authorized to grant or deny requests for records.

(a) The Chief FOIA Officer, Office of Inspector General Legal Counsel or their designees are authorized to grant or deny requests under this part. In the absence of an Office of Inspector General Legal Counsel, the Inspector General shall name a designee who will be authorized to grant or deny requests under this part and who will perform all other functions of the Office of Inspector General Legal Counsel under this part.

(b)(1) The Chief FOIA Officer or designee shall consult with the Office of Inspector General Legal Counsel or designee prior to granting or denying any request for records or portions of records which originated with the OIG, or which contain information which originated with the OIG, but which are maintained by other components of LSC.

(2) The Office of Inspector General Legal Counsel or designee shall consult with the Chief FOIA Officer or designee prior to granting or denying any request for records or portions of records which originated with any component of LSC other than the OIG, or which contain information which originated with a component of LSC other than the OIG, but which are maintained by the OIG.

§ 1602.12 Denials.

(a) A denial of a written request for a record that complies with the requirements of §1602.8 shall be in writing and shall include the following:

Legal Services Corporation

§ 1602.13

(1) A reference to the applicable exemption or exemptions in §1602.10(b) upon which the denial is based;

(2) An explanation of how the exemption applies to the requested records;

(3) A statement explaining why it is deemed unreasonable to provide segregable portions of the record after deleting the exempt portions;

(4) An estimate of the volume of requested matter denied unless providing such estimate would harm the interest protected by the exemption under which the denial is made;

(5) The name and title of the person or persons responsible for denying the request;

(6) An explanation of the right to appeal the denial and of the procedures for submitting an appeal, as described in §1602.13, including the address of the official to whom appeals should be submitted; and

(7) An explanation of the right of the requester to seek dispute resolution services from a FOIA Public Liaison or the Office of Government Information Services.

(b) Whenever LSC makes a record available subject to the deletion of a portion of the record, such action shall be deemed a denial of a record for purposes of paragraph (a) of this section.

(c) All denials shall be treated as final opinions under §1602.5(b).

§ 1602.13 Appeals of denials.

(a) Any person whose written request has been denied is entitled to appeal the denial within 90 days of the date of the response by writing to the President of LSC or, in the case of a denial of a request for OIG records, the Inspector General, at the mailing or email addresses given in §1602.8(b)(1) and (2). The envelope and letter or email appeal should be clearly marked: "Freedom of Information Appeal." An appeal need not be in any particular form, but should adequately identify the denial, if possible, by describing the requested record, identifying the official who issued the denial, and providing the date on which the denial was issued.

(b) No personal appearance, oral argument, or hearing will ordinarily be permitted on appeal of a denial. Upon request and a showing of special cir-

cumstances, however, this limitation may be waived and an informal conference may be arranged with the President, Inspector General or their designees for this purpose.

(c)(1) The decision of the President or the Inspector General on an appeal shall be in writing and, in the event the denial is in whole or in part upheld, shall contain an explanation responsive to the arguments advanced by the requester, the matters described in §1602.12(a)(1) through (4), and the provisions for judicial review of such decision under 5 U.S.C. 552(a)(4). The decision must also notify the requester of the dispute resolution services offered by the National Archives and Records Administration's Office of Government Information Systems as a non-exclusive alternative to litigation. A requester may contact the Office of Government Information Services in any of the following ways:

(i) Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road—OGIS, College Park, MD 20740.

(ii) *ogis.archives.gov*.

(iii) *Email: ogis@nara.gov*.

(iv) *Telephone: 202-741-5770*.

(v) *Facsimile: 202-741-5769*.

(vi) *Toll-free: 1-877-684-6448*.

(2) Dispute resolution through the Office of Government Information Services is a voluntary process. If LSC agrees to participate in the dispute resolution services provided by the Office of Government Information Services, it will actively engage in the process in an attempt to resolve the dispute.

(d) LSC will send its decision to the requester within 20 business days after receipt of the appeal, unless an additional period is justified due to unusual circumstances, as described in §1602.9, in which case LSC may extend the time limit for up to 10 working days by written notice to the requester setting forth the reasons for such extension and the date on which LSC expects to send its determination. The decision of the President or the Inspector General shall constitute the final action of LSC. All such decisions shall be treated as final opinions under §1602.5(b)(1).

(e) On an appeal, the President or designee shall consult with the OIG prior to reversing in whole or in part

§ 1602.14

45 CFR Ch. XVI (10–1–17 Edition)

the denial of any request for records or portions of records which originated with the OIG, or which contain information which originated with the OIG, but which are maintained by LSC. The Inspector General or designee shall consult with the President prior to reversing in whole or in part the denial of any request for records or portions of records which originated with LSC, or which contain information which originated with LSC, but which are maintained by the OIG.

§ 1602.14 Fees.

(a) LSC will not charge fees for information routinely provided in the normal course of doing business.

(b)(1) When records are requested for commercial use, LSC shall limit fees to reasonable standard charges for document search, review, and duplication.

(2) LSC shall not assess any search fees (or if the requester is a representative of the news media, duplication fees) if LSC has failed to comply with the time limits set forth in §1602.9 and no unusual circumstances, as defined in that section apply.

(3)(i) If LSC has determined that unusual circumstances as defined in §1602.9 apply and LSC has provided timely written notice to the requester in accordance with §1602.9, a failure described in paragraph (2) is excused for an additional 10 days. If LSC fails to comply with the extended time limit, LSC may not assess any search fees (or, if the requester is a representative of the news media, duplication fees) except as provided in paragraphs (a)(3)(ii)–(iii) of this section.

(ii) If LSC has determined that unusual circumstances as defined in §1602.9 apply and more than 5,000 pages are necessary to respond to the request, LSC may charge search fees or duplication fees if LSC has provided a timely written notice to the requester in accordance with §1602.9 and LSC has discussed with the requester via written mail, electronic mail, or telephone (or made not less than three good faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with §1602.9.

(iii) If a court has determined that exceptional circumstances exist, as defined by the FOIA, a failure to comply

with the time limits shall be excused for the length of time provided by the court order.

(c) When records are sought by a representative of the news media or by an educational or non-commercial scientific institution, LSC shall limit fees to reasonable standard charges for document duplication after the first 100 pages; and

(d) For all other requests, LSC shall limit fees to reasonable standard charges for search time after the first 2 hours and duplication after the first 100 pages.

(e) The schedule of charges and fees for services regarding the production or disclosure of the Corporation’s records is as follows:

(1) Manual search for and review of records will be charged as follows:

(i) *Administrative fee:* \$22.35/hour;

(ii) *Professional fee:* \$66.26/hour;

(iii) Charges for search and review time less than a full hour will be billed by quarter-hour segments;

(2) *Duplication by paper copy:* 35 cents per page;

(3) *Duplication by other methods:* actual charges as incurred;

(4) *Packing and mailing records:* no charge for regular mail;

(5) *Express mail:* actual charges as incurred.

(f) LSC may charge for time spent searching even if it does not locate any responsive records or it withholds the records located as exempt from disclosure.

(g) *Fee waivers.* A requester may seek a waiver or reduction of the fees established under paragraph (e) of this section. A fee waiver or reduction request will be granted where LSC has determined that the requester has demonstrated that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations of LSC and is not primarily in the commercial interest of the requester.

(1) In order to determine whether disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of LSC, LSC shall consider the following four factors:

(i) *The subject of the request:* Whether the subject of the requested records concerns “the operations or activities of LSC.” The subject of the requested records must concern identifiable operations or activities of LSC, with a connection that is direct and clear, not remote or attenuated.

(ii) *The informative value of the information to be disclosed:* Whether the disclosure is “likely to contribute” to an understanding of LSC operations or activities. The requested records must be meaningfully informative about LSC operations or activities in order to be likely to contribute to an increased public understanding of those operations or activities. The disclosure of information that is already in the public domain, in either a duplicative or a substantially identical form, would not be likely to contribute to such understanding where nothing new would be added to the public’s understanding.

(iii) *The contribution to an understanding of the subject by the public likely to result from disclosure:* Whether disclosure of the requested records will contribute to “public understanding.” The disclosure must contribute to a reasonably broad audience of persons interested in the subject, as opposed to the personal interest of the requester. A requester’s expertise in the subject area and ability and intention to effectively convey information to the public shall be considered. LSC shall presume that a representative of the news media will satisfy this consideration.

(iv) *The significance of the contribution to public understanding:* Whether the disclosure is likely to contribute “significantly” to public understanding of LSC operations or activities. The disclosure must enhance the public’s understanding of the subject in question to a significant extent.

(2) In order to determine whether disclosure of the information is not primarily in the commercial interest of the requester, LSC will consider the following two factors:

(i) *The existence and magnitude of a commercial interest:* Whether the requester has a commercial interest that would be furthered by the requested disclosure. LSC shall consider any commercial interest of the requester (with reference to the definition of

commercial use in this part) or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure.

(ii) *The primary interest in disclosure:* Whether the magnitude of the identified commercial interest is sufficiently large, in comparison with the public interest in disclosure, that disclosure is “primarily” in the commercial interest of the requester. A fee waiver or reduction is justified where the public interest is of greater magnitude than is any identified commercial interest in disclosure. LSC ordinarily shall presume that where a news media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return shall not be presumed primarily to serve a public interest.

(3) Where LSC has determined that a fee waiver or reduction request is justified for only some of the records to be released, LSC shall grant the fee waiver or reduction for those records.

(4) Requests for fee waivers and reductions shall be made in writing and must address the factors listed in this paragraph as they apply to the request.

(h) Requesters must agree to pay all fees charged for services associated with their requests. LSC will assume that requesters agree to pay all charges for services associated with their requests up to \$25 unless otherwise indicated by the requester. For requests estimated to exceed \$25, LSC will consult with the requester prior to processing the request, and such requests will not be deemed to have been received by LSC until the requester agrees in writing to pay all fees charged for services. LSC will also make available its FOIA Public Liaison or other FOIA professional to assist any requester in reformulating a request to meet the requester’s needs at a lower cost.

(i) No requester will be required to make an advance payment of any fee unless:

(1) The requester has previously failed to pay a required fee within 30 days of the date of billing, in which case an advance deposit of the full

§ 1602.15

45 CFR Ch. XVI (10–1–17 Edition)

amount of the anticipated fee together with the fee then due plus interest accrued may be required (and the request will not be deemed to have been received by LSC until such payment is made); or

(2) LSC determines that an estimated fee will exceed \$250, in which case the requester shall be notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. Such notification shall be transmitted as soon as possible, but in any event within five working days of receipt by LSC, giving the best estimate then available. The notification shall offer the requester the opportunity to confer with appropriate representatives of LSC for the purpose of reformulating the request so as to meet the needs of the requester at a reduced cost. The request will not be deemed to have been received by LSC for purposes of the initial 20-day response period until the requester makes a deposit on the fee in an amount determined by LSC.

(j) Interest may be charged to those requesters who fail to pay the fees charged. Interest will be assessed on the amount billed, starting on the 31st day following the day on which the billing was sent. The rate charged will be as prescribed in 31 U.S.C. 3717.

(k) If LSC reasonably believes that a requester or group of requesters is attempting to break a request into a series of requests for the purpose of evading the assessment of fees, LSC shall aggregate such requests and charge accordingly. Likewise, LSC will aggregate multiple requests for documents received from the same requester within 45 days.

§ 1602.15 Submitter's rights process.

(a) When LSC receives a FOIA request seeking the release of confidential commercial information, LSC shall provide prompt written notice of the request to the submitter in order to afford the submitter an opportunity to object to the disclosure of the requested confidential commercial information. The notice shall reasonably describe the confidential commercial information requested, inform the submitter of the process required by paragraph (b) of this section, and provide a

reasonable time period for the submitter to respond.

(b) If a submitter who has received notice of a request for the submitter's confidential commercial information wishes to object to the disclosure of the confidential commercial information, the submitter must provide LSC within the time period set forth in the notice, a detailed written statement identifying the information which it objects. The submitter must send its objections to the Office of Legal Affairs or, if it pertains to Office of Inspector General records, to the Office of Inspector General, and must specify the grounds for withholding the information under FOIA or this part. In particular, the submitter must demonstrate why the information is commercial or financial information that is privileged or confidential. If the submitter fails to respond to the notice from LSC within the time period specified in the notice, LSC will deem the submitter to have no objection to the disclosure of the information.

(c) Upon receipt of written objection to disclosure by a submitter, LSC shall consider the submitter's objections and specific grounds for withholding in deciding whether to release the disputed information. Whenever LSC decides to disclose information over the objection of the submitter, LSC shall give the submitter written notice which shall include:

(1) A description of the information to be released and a notice that LSC intends to release the information;

(2) A statement of the reason(s) why the submitter's request for withholding is being rejected; and

(3) A specified disclosure date, which must be a reasonable time after the notice.

(d) The requirements of this section shall not apply if:

(1) LSC determines upon initial review of the requested confidential commercial information that the requested information should not be disclosed;

(2) The information has been previously published or officially made available to the public; or

(3) Disclosure of the information is required by statute (other than FOIA) or LSC's regulations.

Legal Services Corporation

(e) Whenever a requester files a lawsuit seeking to compel disclosure of a submitter's information, LSC shall promptly notify the submitter.

(f) Whenever LSC provides a submitter with notice and opportunity to oppose disclosure under this section, LSC shall notify the requester that the submitter's rights process under this section has been triggered. Likewise, whenever a submitter files a lawsuit seeking to prevent the disclosure of the submitter's information, LSC shall notify the requester.

LEGAL SERVICES CORPORATION
45 CFR Part 1603
Requests for Documents and Testimony

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: This final rule governs subpoenas and requests for LSC documents and testimony by non-federal litigants in cases in which LSC is not a party. This rule provides the public with guidance on where to send requests and establishes procedures by which those requests will be processed.

DATES: This final rule is effective on May 18, 2018.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Assistant General Counsel, 202-295-1563, sdavis@lsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

LSC proposed to create a new regulation, known as a *Touhy* regulation, that would establish a process by which litigants in cases where LSC is not a party could obtain documents or testimony from LSC and its employees. Arising from the Supreme Court's decision in *U.S. ex rel Touhy v. Ragen*, 340 U.S. 462 (1951), *Touhy* regulations define agencies' procedures for responding to document or testimony requests, as well as individual agency employees' obligation to follow such procedures.

Between 2013 and 2017, LSC and its Office of the Inspector General (OIG) received several subpoenas and requests for testimony or documents but did not

have internal or external guidance in place regarding such requests. At the OIG's recommendation, LSC added rulemaking on requests for documents and testimony to its rulemaking agenda in 2015. On October 15, 2017, the Operations and Regulations Committee (Committee) of LSC's Board of Directors (Board) voted to recommend that the Board authorize rulemaking on part 1603. On October 17, 2017, the Board authorized LSC to begin rulemaking.

Regulatory action was justified for four reasons. First, a *Touhy* regulation would promote efficiency and timeliness by identifying those LSC officials with the authority to respond to requests or subpoenas for documents or testimony and establishing a procedure for LSC's consideration of such requests. Second, it would minimize the possibility of involving LSC in controversies not related to its functions. Third, it would prevent the

misuse of LSC's employees as involuntary expert witnesses for private interests or as inappropriate expert witnesses as to the state of the law. Fourth, it would maintain LSC's impartiality toward private litigants.

On January 21, 2018, the Committee voted to recommend that the Board approve this notice of proposed rulemaking (NPRM) for publication. On January 23, 2018, the Board accepted the Committee's recommendation and voted to approve publication of this NPRM with a 30-day comment period. LSC published the notice of proposed rulemaking in the **Federal Register** on February 1, 2018, 83 FR 4827. The comment period remained open for thirty days and closed on March 5, 2018.

On April 8, 2018, the Committee voted to recommend that the Board adopt this Final Rule and approve its publication in the **Federal Register**. On April 10, 2018, the Board accepted the Committee's recommendation and voted to adopt and approve publication of this final rule.

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

II. Discussion of the Final Rule

LSC received no comments on the proposed rule. Consequently, LSC is adopting the text of the proposed rule published in the **Federal Register** at 83 FR 4827 with minor revisions. At the Operations and Regulations Committee meeting on April 8, 2018, the Committee recommended that LSC make two technical changes. The first was to include language in the definition of *employee* to make clear that this rule applies to non-Director members of Board committees. The second was to add language to § 1603.4(a) clarifying that individuals seeking testimony from an employee of OIG must follow the procedures in § 1603.4(b) for requesting testimony from the OIG Legal Counsel, rather than submitting the request to LSC's General Counsel. LSC Management concurred with the recommendations and revised the proposed final rule text accordingly.

In a final rule published elsewhere in this issue of the **Federal Register**, LSC is removing the existing version of part 1603 pertaining to state advisory councils. LSC is replacing it with this regulation.

List of Subjects in 45 CFR Part 1603

Administrative practice and procedure; Archives and records; Courts.

■ For the reasons discussed in the preamble, the Legal Services Corporation adds CFR part 1603 to read as follows:

PART 1603—TESTIMONY BY EMPLOYEES AND PRODUCTION OF DOCUMENTS IN PROCEEDINGS WHERE THE UNITED STATES IS NOT A PARTY

Sec.

1603.1 Scope, purpose, and applicability.

1603.2 Definitions.

1603.3 What is LSC's policy on presentation of testimony and production of documents?

1603.4 How does a person request voluntary testimony from an employee?

1603.5 How will LSC respond to a request for expert testimony from an employee?

1603.6 How will LSC respond to a subpoena for documents?

1603.7 When will LSC certify the authenticity of records?

1603.8 Does this part give individuals any rights?

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

§ 1603.1 Scope, purpose, and applicability.

(a) This part sets forth rules to be followed when a litigant requests an employee of the Legal Services Corporation (LSC), including LSC's Office of the Inspector General (OIG), to provide testimony in a deposition, trial, or other similar proceeding concerning information acquired in the course of performing official duties or because of such person's official capacity with LSC. This part also sets forth procedures for the handling of subpoenas for documents and other requests for documents in the possession of LSC or the OIG, and for the processing of requests for certification of copies of documents.

(b) It is LSC's policy to provide information, data, and records to non-federal litigants to the same extent and in the same manner that they are made available to the public. When subject to the jurisdiction of a court or other tribunal presiding over litigation between non-federal parties, LSC will follow all applicable procedural and substantive rules relating to the production of information, data, and records by a non-party. The availability of LSC employees to testify in litigation not involving federal parties is governed by LSC's policy to maintain strict impartiality with respect to private litigants and to minimize the disruption of official duties.

(c) This part applies to state, local, and tribal judicial, administrative, and legislative proceedings, and to federal judicial and administrative proceedings.

(d) This part does not apply to:

(1) Any civil or criminal proceedings to which LSC is a party.

(2) Congressional requests or subpoenas for testimony or documents.

(3) Consultative services and technical assistance provided by LSC in carrying out its normal program activities.

(4) Employees serving as expert witnesses in connection with professional and consultative services as approved outside activities. In cases where employees are providing such outside services, they must state for the record that the testimony represents their own views and does not necessarily represent the official position of LSC.

(5) Employees making appearances in their private capacity in legal or administrative proceedings that do not relate to LSC, such as cases arising out of traffic accidents, crimes, domestic relations, etc., and not involving professional and consultative services.

(6) Any civil or criminal proceedings in State court brought on behalf of LSC.

(7) Any criminal proceeding brought as a result of a referral for prosecution by the OIG or by any other Inspector General in connection with a case worked jointly with the OIG.

§ 1603.2 Definitions.

(a) *Certify* means to authenticate official LSC documents.

(b) *Employee* means current and former LSC employees, including temporary employees, OIG employees, and members of the Board of Directors and its Committees.

(c) *LSC* means the Legal Services Corporation. Unless explicitly stated otherwise, LSC includes the OIG.

(d) *Testify* and *testimony* include in-person, oral statements before a court, legislative or administrative body and statements made pursuant to depositions, interrogatories, declarations, affidavits, or other formal participation.

§ 1603.3 What is LSC's policy on presentation of testimony and production of documents?

In any proceedings to which this part applies, no employee may provide testimony or produce documents concerning information acquired in the course of performing official duties or because of the person's official relationship with LSC unless authorized by the General Counsel or the OIG Legal Counsel pursuant to this part based on

his or her determination that compliance with the request would promote LSC's objectives.

§ 1603.4 How does a person request voluntary testimony from an employee?

(a) All requests for testimony by an employee in his or her official capacity, except employees of OIG described in paragraph (b) of this section, and not subject to the exceptions set forth in § 1603.1(d) of this part must be in writing and addressed to the General Counsel.

(b) All requests for testimony by an employee of the OIG must be in writing and addressed to the OIG Legal Counsel.

(c) Requests must state the nature of the requested testimony, why the information sought is unavailable by any other means, and the reasons why the testimony would be in the interest of LSC.

§ 1603.5 How will LSC respond to a request for expert testimony from an employee?

No employee shall serve as an expert witness in any proceeding described in § 1603.1(c) of this part or before a court or agency of the United States unless the General Counsel or the OIG Legal Counsel authorizes the employee's participation.

§ 1603.6 How will LSC respond to a subpoena for documents?

(a) Whenever a subpoena commanding the production of any LSC record has been served upon an employee, the employee shall refer the subpoena to the General Counsel or the OIG Legal Counsel, as appropriate. The General Counsel or the OIG Legal Counsel shall determine whether the subpoena is legally sufficient, whether the subpoena was properly served, and whether the issuing court or other tribunal has jurisdiction over LSC. If the General Counsel or the OIG Legal Counsel determines that the subpoena satisfies all three factors, LSC shall comply with the terms of the subpoena unless LSC takes affirmative action to modify or quash the subpoena in accordance with Fed. R. Civ. P. 45 (c).

(b) If a subpoena commanding the production of any record served upon an employee is determined by the General Counsel or the OIG Legal Counsel to be legally insufficient, improperly served, or from a tribunal not having jurisdiction, LSC shall deem the subpoena a request for records under the Freedom of Information Act. LSC shall handle the subpoena pursuant to the rules governing public disclosure established in 45 CFR part 1602.

(c) If the General Counsel or the OIG Legal Counsel denies approval to

comply with a subpoena for testimony or has not acted by the return date, the employee will be directed to appear at the stated time and place, unless advised by the General Counsel or the OIG Legal Counsel that responding to the subpoena would be inappropriate. The employee will be directed to produce a copy of these regulations and respectfully decline to testify or produce any documents on the basis of these regulations.

§ 1603.7 When will LSC certify the authenticity of records?

Upon request, LSC will certify the authenticity of copies of records that are to be disclosed. The requesting party will be responsible for reasonable fees for copying and certification.

§ 1603.8 Does this part give individuals any rights?

This part is intended only to provide a process for receipt and processing of private litigants' requests for LSC documents and testimony. It does not, and may not be relied upon, to create a right or benefit, substantive or procedural, enforceable at law by a party against LSC.

Dated: April 11, 2018.

Stefanie Davis,

Assistant General Counsel.

[FR Doc. 2018-07964 Filed 4-17-18; 8:45 am]

BILLING CODE 7050-01-P

in pro bono legal assistance and comply with the reasonable demands made upon them as members of the Bar and as officers of the Court.

§ 1604.2 Definitions.

As used in this part—

(a) *Full-time attorney* means an attorney who is employed full-time by a recipient in legal assistance activities supported in major part by the Corporation, and who is authorized to practice law in the jurisdiction where assistance is provided.

(b) *Outside practice of law* means the provision of legal assistance to a client who is not receiving that legal assistance from the employer of the full-time attorney rendering assistance, but does not include court appointments except where specifically stated or the performance of duties as a Judge Advocate General Corps attorney in the United States armed forces reserves.

(c) *Court appointment* means an appointment in a criminal or civil case made by a court or administrative agency under a statute, rule or practice applied generally to attorneys practicing in the court or before the administrative agency where the appointment is made.

§ 1604.3 General policy.

(a) A recipient shall adopt written policies governing the outside practice of law by full-time attorneys that are consistent with the LSC Act, this part and applicable rules of professional responsibility.

(b) A recipient's policies may permit the outside practice of law by full-time attorneys only to the extent allowed by the LSC Act and this part, but may impose additional restrictions as necessary to meet the recipient's responsibilities to clients.

§ 1604.4 Permissible outside practice.

A recipient's written policies may permit a full-time attorney to engage in a specific case or matter that constitutes the outside practice of law if:

(a) The director of the recipient or the director's designee determines that representation in such case or matter is consistent with the attorney's responsibilities to the recipient's clients;

PART 1604—OUTSIDE PRACTICE OF LAW

- Sec.
- 1604.1 Purpose.
- 1604.2 Definitions.
- 1604.3 General policy.
- 1604.4 Permissible outside practice.
- 1604.5 Compensation.
- 1604.6 Use of recipient resources.
- 1604.7 Court appointments.

AUTHORITY: 42 U.S.C. 2996e(b)(3), 2996e(d)(6), 2996f(a)(4), 2996g(e).

SOURCE: 68 FR 67377, Dec. 2, 2003, unless otherwise noted.

§ 1604.1 Purpose.

This part is intended to provide guidance to recipients in adopting written policies relating to the outside practice of law by recipients' full-time attorneys. Under the standards set forth in this part, recipients are authorized, but not required, to permit attorneys, to the extent that such activities do not hinder fulfillment of their overriding responsibility to serve those eligible for assistance under the Act, to engage

§ 1604.5

(b) Except as provided in §1604.7, the attorney does not intentionally identify the case or matter with the Corporation or the recipient; and

(c) The attorney is—

(1) Newly employed and has a professional responsibility to close cases from a previous law practice, and does so on the attorney's own time as expeditiously as possible; or

(2) Acting on behalf of him or herself, a close friend, family member or another member of the recipient's staff; or

(3) Acting on behalf of a religious, community, or charitable group; or

(4) Participating in a voluntary pro bono or legal referral program affiliated with or sponsored by a bar association, other legal organization or religious, community or charitable group.

§ 1604.5 Compensation.

(a) Except as provided in paragraph (b) of this section and §1604.7(a), a recipient's written policies shall not permit a full-time attorney to receive any compensation for the outside practice of law.

(b) A recipient's written policies which permit a full-time attorney who meets the criteria set forth in §1604.4(c)(1) to engage in the outside practice of law shall permit full-time attorneys to seek and receive personal compensation for work performed pursuant to that section.

§ 1604.6 Use of recipient resources.

(a) For cases undertaken pursuant to §1604.4(c)(1), a recipient's written policies may permit a full-time attorney to use *de minimis* amounts of the recipient's resources for permissible outside practice if necessary to carry out the attorney's professional responsibilities, as long as the recipient's resources, whether funded with Corporation or private funds, are not used for any activities for which the use of such funds is prohibited.

(b) For cases undertaken pursuant to §1604.4(c) (2) through (4), a recipient's written policies may permit a full-time attorney to use limited amounts of the recipient's resources for permissible outside practice if necessary to carry out the attorney's professional respon-

45 CFR Ch. XVI (10–1–17 Edition)

sibilities, as long as the recipient's resources, whether funded with Corporation or private funds are not used for any activities for which the use of such funds is prohibited.

§ 1604.7 Court appointments.

(a) A recipient's written policies may permit a full-time attorney to accept a court appointment if the director of the recipient or the director's designee determines that:

(1) Such an appointment is consistent with the recipient's primary responsibility to provide legal assistance to eligible clients in civil matters;

(2) The appointment is made and the attorney will receive compensation for the court appointment under the same terms and conditions as are applied generally to attorneys practicing in the court where the appointment is made; and

(3) Subject to the applicable law and rules of professional responsibility, the attorney agrees to remit to the recipient any compensation received.

(b) A recipient's written policies may permit a full-time attorney to use program resources to undertake representation pursuant to a court appointment.

(c) A recipient's written policies may permit a full-time attorney to identify the recipient as his or her employer when engaged in representation pursuant to a court appointment.

(d) If, under the applicable State or local court rules or practices or rules of professional responsibility, legal services attorneys are mandated to provide pro bono legal assistance in addition to the attorneys' work on behalf of the recipient's clients, the recipient's written policies shall treat such legal assistance in the same manner as court appointments under paragraphs (a)(1), (a)(3), (b) and (c) of this section, provided that the policies may only permit mandatory pro bono activities that are not otherwise prohibited by the LSC Act, applicable appropriations laws, or LSC regulation.

PART 1605—APPEALS ON BEHALF OF CLIENTS

Sec.
1605.1 Purpose.

Legal Services Corporation

§ 1606.1

1605.2 Definition.

1605.3 Review of Appeals.

AUTHORITY: Secs. 1007(a)(7), 1008(e), 42 U.S.C. 2996f(a)(7), 2996g(e).

SOURCE: 41 FR 18513, May 5, 1976, unless otherwise noted.

§ 1605.1 Purpose.

This part is intended to promote efficient and effective use of Corporation funds. It does not apply to any case or matter in which assistance is not being rendered with funds provided under the Act.

§ 1605.2 Definition.

Appeal means any appellate proceeding in a civil action as defined by law or usage in the jurisdiction in which the action is filed.

§ 1605.3 Review of Appeals.

The governing body of a recipient shall adopt a policy and procedure for review of every appeal to an appellate court taken from a decision of any court or tribunal. The policy adopted shall

- (a) Discourage frivolous appeals, and
- (b) Give appropriate consideration to priorities in resource allocation adopted by the governing body, or required by the Act, or Regulations of the Corporation; but
- (c) Shall not interfere with the professional responsibilities of an attorney to a client.

PART 1606—TERMINATION, LIMITED REDUCTION OF FUNDING, AND DEBARMENT PROCEDURES; RE-COMPETITION

Sec.

1606.1 Purpose.

1606.2 Definitions.

1606.3 Grounds for a termination or a limited reduction of funding.

1606.4 Grounds for debarment.

1606.5 Procedures.

1606.6 Preliminary determination and final decision.

1606.7 Corrective action, informal conference, review of written materials, and final decision.

1606.8 Hearing for a termination or debarment.

1606.9 Recommended decision for a termination or debarment.

1606.10 Final decision for a termination, debarment, or limited reduction of funding.

1606.11 Qualifications on hearing procedures.

1606.12 Time and waiver.

1606.13 Interim and termination funding; re-programming, implementation.

1606.14 Recompensation.

AUTHORITY: 42 U.S.C. 2996e(b)(1), 2996f(a)(3), and 2996f(d); Pub. L. 105-119, Title V, Secs. 501(b) and (c), 502, 503, and 504, 111 Stat. 2440, 2510-12; Pub. L. 104-134, Title V, Sec. 503(f), 110 Stat. 1321, 1321-53.

SOURCE: 78 FR 10093, Feb. 13, 2013, unless otherwise noted.

§ 1606.1 Purpose.

The purpose of this rule is to:

- (a) Ensure that the Corporation is able to take timely action to deal with incidents of substantial noncompliance by recipients with a provision 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 and conditions of the recipient's grant or contract with the Corporation;
- (b) Provide timely and fair due process procedures, proportional to the proposed action, when the Corporation has made a preliminary decision to terminate a recipient's LSC grant or contract, to debar a recipient from receiving future LSC awards of financial assistance, or to impose a limited reduction in funding; and
- (c) Ensure that scarce funds are provided to recipients who can provide the most effective and economical legal assistance to eligible clients.

(d) None of the following actions are subject to the procedures or requirements of this part:

(1) A reduction of funding required by law, including but not limited to a reduction in, or rescission of, the Corporation's appropriation that is apportioned among all recipients of the same class in proportion to their current level of funding;

(2) A reduction or deduction of LSC support for a recipient under the Corporation's fund balance regulation at 45 CFR part 1628;

(3) A recovery of disallowed costs under the Corporation's regulation on costs standards and procedures at 45 CFR part 1630;

§ 1606.2

45 CFR Ch. XVI (10–17 Edition)

(4) A withholding of funds pursuant to the Corporation's Private Attorney Involvement rule at 45 CFR part 1614.

§ 1606.2 Definitions.

For the purposes of this part:

Corporation, when used to refer to decisions by the Legal Services Corporation, means that those decisions are made by an individual acting with a seniority level at, or equivalent to, the level of an office director or higher.

Days shall mean the number of calendar days as determined by the rules for computing time in the Federal Rules of Civil Procedure, Rule 6, except that computation of *business days* shall exclude Saturdays, Sundays, and legal holidays (as defined in those rules).

Debarment means an action taken by the Corporation to exclude a recipient from receiving an additional award of financial assistance from the Corporation or from receiving additional LSC funds from another recipient of the Corporation pursuant to any other means, including a subgrant, sub-contract or similar agreement, for the period of time stated in the final debarment decision.

Funding term means the maximum time period for an award or awards of financial assistance under section 1006(a)(1)(A) of the LSC Act provided by the Corporation to a recipient selected pursuant the competition requirements at 45 CFR part 1634. LSC may award grants or contracts for a period of the entire funding term or for shorter periods that may be renewed or extended up to the funding term.

Knowing and willful means that the recipient had actual knowledge that its action or lack thereof constituted a violation and despite such knowledge, undertook or failed to undertake the action, as the case may be.

Limited reduction of funding means a reduction of funding of less than five percent of a recipient's current level of financial assistance imposed by the Corporation in accordance with the procedures and requirements of this part. A limited reduction of funding will affect only the recipient's current year's funding.

LSC requirements means the same as that term is defined in 45 CFR Part 1618.

Receipt of materials shall mean that the materials were sent to the normal address for physical mail, email, or fax transmission, and there is reliable secondary confirmation of delivery. For physical delivery, confirmation may be provided through tracking information from the delivery service. For other forms of delivery, confirmation may be provided through a document such as a confirmation email or a fax sent from an authorized person at the recipient. Receipt of materials by the LSC recipient or the Corporation is sufficient for the running of applicable time periods. Proof of receipt by the Chair of the governing body is not necessary unless delivery to the recipient itself cannot be reasonably accomplished.

Recipient means the same as the term is defined in 45 CFR Part 1600.

Substantial noncompliance means either a substantial violation, as defined in this part, or a substantial failure, as indicated at § 1606.3(a) of this part.

Substantial violation means a violation that merits action under this part based on consideration of the following criteria by the Corporation:

- (1) The number of restrictions or requirements violated;
- (2) 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;
- (3) The extent to which the violation is part of a pattern of noncompliance with LSC requirements or restrictions;
- (4) The extent to which the recipient failed to take action to cure the violation when it became aware of the violation; and
- (5) Whether the violation was knowing and willful.

Termination means that a recipient's level of financial assistance under its grant or contract with the Corporation will be reduced in whole or in part in the amount of five percent or greater prior to the expiration of the funding term of a recipient's current grant or contract. A partial termination will affect only the level of funding for the current grant year, unless the Corporation provides otherwise in the final decision.

Legal Services Corporation

§ 1606.5

Violation means a violation by the recipient of the LSC requirements.

§ 1606.3 Grounds for a termination or a limited reduction of funding.

(a) A grant or contract may be terminated in whole or in part when:

(1) There has been a substantial violation by the recipient, and the violation occurred less than 5 years prior to the date the recipient receives a preliminary determination pursuant to § 1606.6(a) of this part; or

(2) There has been a substantial failure by the recipient to provide high quality, economical, and effective legal assistance, as measured by generally accepted professional standards, the provisions of the LSC Act or LSC appropriations, or a rule, regulation, including 45 CFR 1634.9(a)(2), or guidelines or instructions issued by the Corporation.

(b) The Corporation may impose a limited reduction of funding when the Corporation determines that there has been a substantial violation by the recipient but that termination of the recipient's grant, in whole or in part, is not warranted, and the violation occurred less than 5 years prior to the date the recipient receives a preliminary determination pursuant to § 1606.6(a) of this part.

(c) A determination of whether there has been a substantial violation for the purposes of this part, and the magnitude of any termination, in whole or in part, or any limited reduction in funding, shall be based on consideration of the criteria set forth in the definition of "substantial violation" in § 1606.2 of this part.

§ 1606.4 Grounds for debarment.

(a) The Corporation may debar a recipient, on a showing of good cause, from receiving an additional award of financial assistance from the Corporation.

(b) As used in paragraph (a) of this section, "good cause" means:

(1) A termination of financial assistance to the recipient pursuant to part 1640 of this chapter;

(2) A termination of financial assistance in whole of the most recent grant or contract of financial assistance;

(3) The substantial violation by the recipient of the restrictions delineated in § 1610.2(a) and (b) of this chapter, provided that the violation occurred within 5 years prior to the receipt of the debarment notice by the recipient;

(4) Knowing entry by the recipient into:

(i) Any agreement or arrangement, including, but not limited to, a subgrant, subcontract, or other similar agreement, with an entity debarred by the Corporation during the period of debarment if so precluded by the terms of the debarment; 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

(5) 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.

§ 1606.5 Procedures.

(a) Before any final action is taken under this part, the recipient will be provided notice and an opportunity to be heard as set out in this part.

(b) Prior to a preliminary determination involving a limited reduction of funding, the Corporation shall designate either the President or another senior Corporation employee to conduct any final review that is requested pursuant to § 1606.10 of this part. The Corporation shall ensure that the person so designated has had no prior involvement in the proceedings under this part so as to meet the criterion set out in § 1606.10(d) of this part.

§ 1606.6 Preliminary determination and final decision.

(a) When the Corporation has made a preliminary determination of one or more of the following, the Corporation shall issue a written notice to the recipient and the Chair of the recipient's governing body: that a recipient's grant or contract should be terminated, that a limited reduction of funding shall be imposed, or that a recipient should be debarred. The notice shall:

- (1) State the substantial noncompliance that constitutes the grounds for the proposed action;
- (2) Identify, with reasonable specificity, any facts or documents relied upon as justification for the proposed action;
- (3) Inform the recipient of the proposed amount and proposed effective date for the proposed action;
- (4) Advise the recipient of its procedural rights for review of the proposed action under this part;
- (5) Inform the recipient of its right to receive interim funding pursuant to § 1606.13 of this part;
- (6) Specify what, if any, corrective action the recipient can take to avoid the proposed action; and
- (7) Summarize prior attempts, if any, for resolution of the substantial non-compliance.

(b) If the recipient does not request review, as provided for in this part, before the relevant time limits have expired, then the Corporation may issue a final decision to the recipient. No further appeal or review will be available under this part.

§ 1606.7 Corrective action, informal conference, review of written materials, and final decision.

(a) If the Corporation proposes a corrective action in the preliminary determination pursuant to § 1606.6(a)(6) of this part, then the recipient may accept and implement the corrective action, in lieu of an informal conference or submission of written materials under this section, subject to the following requirements:

- (1) Within 10 business days of receipt of the preliminary determination, the recipient may submit a draft compliance agreement to accept the terms of

the proposed corrective action, which must include an implementation plan and timeline;

(2) If the Corporation approves the draft compliance agreement, including any modifications suggested by the recipient or the Corporation, then it shall be memorialized in a final compliance agreement signed by the Corporation and the recipient, which shall stay these proceedings;

(3) If the recipient completes the terms of the written compliance agreement in a time and manner that is satisfactory to the Corporation, then the Corporation shall withdraw the preliminary determination; and

(4) If the Corporation determines at any time that the recipient has not presented an acceptable draft compliance agreement, or has not fulfilled any terms of the final compliance agreement, then the Corporation shall notify the recipient in writing. Within 15 calendar days of that notice, the Corporation shall modify or affirm the preliminary determination as a draft final decision. The draft final decision shall summarize these attempts at resolution. The draft final decision need not engage in a detailed analysis of the failure to resolve the substantial non-compliance.

(b) A recipient may submit written materials in opposition to the preliminary determination, request an informal conference, or both, as follows:

- (1) For terminations or debarments, within 30 calendar days of receipt of the preliminary determination; or
- (2) For limited reductions in funding, within 10 business days of receipt of the preliminary determination.

(c) Within 5 business days of receipt of a request for a conference, the Corporation shall notify the recipient of the time and place the conference will be held. Some or all of the participants in the conference may attend via telephone, unless the recipient requests an in-person meeting between the Corporation and at least one representative of the recipient. If the recipient requests an in-person meeting, then other participants may attend via telephone. Alternative means of participation other than the telephone are permissible at the sole discretion of the Corporation.

Legal Services Corporation

§ 1606.8

(d) The informal conference shall be conducted by the Corporation employee who issued the preliminary determination or any other Corporation employee with a seniority level equivalent to the level of an office director or higher.

(e) At the informal conference, the Corporation and the recipient shall both have an opportunity to state their case, seek to narrow the issues, explore the possibilities of settlement or compromise including implementation of corrective actions, and submit written materials.

(f) If an informal conference is conducted or written materials are submitted in opposition to the proposed determination by the recipient, or both, the Corporation shall consider any written materials and any oral presentation or written materials submitted by the recipient at an informal conference. Based on any of these materials or the informal conference, or both, the Corporation shall modify, withdraw, or affirm the preliminary determination through a draft final decision in writing, which shall be provided to the recipient within the later of 15 calendar days after the conclusion of the informal conference or after the recipient of written materials in opposition to the proposed determination (when no informal conference is requested). Except for decisions to withdraw the preliminary determination, the draft final decision shall include a summary of the issues raised in the informal conference and presented in any written materials. The draft final decision need not engage in a detailed analysis of all issues raised.

(g) If the recipient does not request further process, as provided for in this part, then, after the relevant time limits have expired, the Corporation shall notify the recipient that no further appeal or review will be available under this part and may proceed to issue the final decision.

§ 1606.8 Hearing for a termination or debarment.

(a) For terminations or debarments only, the recipient may make a written request for a hearing within the later of: 30 calendar days of its receipt of the preliminary determination, or 15 cal-

endar days of receipt of the draft final decision issued under § 1606.7 of this part, as the case may be.

(b) Within 10 business days after receipt of a request for a hearing, the Corporation shall 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. The time, date, and location of the hearing may be changed upon agreement of the Corporation and the recipient.

(c) A hearing officer shall be appointed by the President or designee and may be an employee of the Corporation. The hearing officer shall not have been involved in the current termination or debarment action, and the President or designee shall determine that the person is qualified to preside over the hearing as an impartial decision maker. An impartial decision maker is 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.

(d) The hearing shall be scheduled to commence at the earliest appropriate date, ordinarily not later than 30 calendar days after the Corporation receives the notice required by paragraph (b) of this section.

(e) The hearing officer shall preside over and conduct a full and fair hearing, avoid delay, maintain order, and insure that a record sufficient for full disclosure of the facts and issues is maintained.

(f) The hearing shall be open to the public unless, for good cause and the interests of justice, the hearing officer determines otherwise.

(g) The Corporation and the recipient shall be entitled to be represented by counsel or by another person.

(h) At the hearing, the Corporation and the recipient each may present its case by oral or documentary evidence, conduct examination and cross-examination of witnesses, examine any documents submitted, and submit rebuttal evidence.

(i) The hearing officer shall not be bound by the technical rules of evidence and may make any procedural or evidentiary ruling that may help to insure full disclosure of the facts, to

§ 1606.9

maintain order, or to avoid delay. Irrelevant, immaterial, repetitious or unduly prejudicial matter may be excluded.

(j) Official notice may be taken of published policies, rules, regulations, guidelines, and instructions of the Corporation, of any matter of which judicial notice may be taken in a Federal court, or of any other matter whose existence, authenticity, or accuracy is not open to serious question.

(k) A stenographic or electronic record shall be made in a manner determined by the hearing officer, and a copy shall be made available to the recipient at no cost.

(l) The Corporation shall have the initial burden to show grounds for a termination or debarment. The burden of persuasion shall then shift to the recipient to show by a preponderance of evidence on the record that its funds should not be terminated or that it should not be debarred.

§ 1606.9 Recommended decision for a termination or debarment.

(a) For termination or debarment hearings under § 1606.8 of this part, within 20 calendar days after the conclusion of the hearing, the hearing officer shall issue a written recommended decision to the recipient and the Corporation, which may:

(1) Terminate financial assistance to the recipient commencing as of a specific date;

(2) Impose a limited reduction of funding commencing as of a specific date;

(3) Continue the recipient's current level of financial assistance under the grant or contract, subject to any modification or condition that may be deemed necessary on the basis of information adduced at the hearing; or

(4) Debar the recipient from receiving an additional award of financial assistance from the Corporation.

(b) The recommended decision shall contain findings of the significant and relevant facts and shall state the reasons for the decision. Findings of fact shall be based solely on the record of, and the evidence adduced at the hearing or on matters of which official notice was taken.

45 CFR Ch. XVI (10–1–17 Edition)

§ 1606.10 Final decision for a termination, debarment, or limited reduction of funding.

(a) If neither the Corporation nor the recipient requests review by the President of a draft final decision pursuant to § 1606.7 of this part or a recommended decision pursuant to § 1606.9, as provided for in this part, within 10 business days after receipt by the recipient, then the Corporation shall issue to the recipient a final decision containing either the draft final decision or the recommended decision, as the case may be. No further appeal or review will be available under this part.

(b) The recipient or the Corporation may seek review by the President of a draft final decision or a recommended decision. A request shall be made in writing within 10 business days after receipt of the draft final decision or recommended decision by the party seeking review and shall state in detail the reasons for seeking review.

(c) The President's review shall be based solely on the administrative record of the proceedings, including the appeal to the President, and any additional submissions, either oral or in writing, that the President may request. A recipient shall be given a copy of, and an opportunity to respond to, any additional submissions made to the President. All submissions and responses made to the President shall become part of the administrative record. Upon request, the Corporation shall provide a copy of the administrative record to the recipient.

(d) For an appeal of a draft final decision involving a limited reduction of funding pursuant to § 1606.7 of this part (for which there is no right to a hearing under § 1606.8 of this part) the President may not review the appeal if the President has had prior involvement in the proceedings under this part. If the President cannot review the appeal, or the President chooses not to do so, then the appeal shall be reviewed by either the individual designated to do so pursuant to § 1606.5(b) of this part, or by another senior Corporation employee designated by the President who has not had prior involvement in the proceedings under this part.

Legal Services Corporation

§ 1606.12

(e) As soon as practicable after receipt of the request for review of a draft final decision or a recommended decision, but not later than 30 calendar days thereafter, the President or designee shall adopt, modify, or reverse the draft final decision or the recommended decision, or direct further consideration of the matter. In the event of modification or reversal of a recommended decision pursuant to §1606.9 of this part, this decision shall conform to the requirements of §1606.9(b) of this part.

(f) The decision of the President or designee under this section shall become final upon receipt by the recipient.

§ 1606.11 Qualifications on hearing procedures.

(a) Except as modified by paragraph (c) of this section, the hearing rights set out in §§1606.6 through 1606.10 of this part shall apply to any action to debar a recipient or to terminate a recipient's funding.

(b) The Corporation may simultaneously take action to debar and terminate a recipient within the same hearing procedure that is set out in §§1606.6 through 1606.10 of this part. In such a case, the same hearing officer shall oversee both the termination and debarment actions in the same hearing.

(c) If the Corporation does not simultaneously take action to debar and terminate a recipient under paragraph (b) of this section and initiates a debarment action based on a prior termination under §1606.4(b)(1) or (2), the hearing procedures set out in §1606.6 through 1606.10 of this part shall not apply. Instead:

(1) The President shall appoint a hearing officer, as described in §1606.8(c), to review the matter and make a written recommended decision on debarment.

(2) The hearing officer's recommended decision shall be based solely on the information in the administrative record of the termination proceedings providing grounds for the debarment and any additional submissions, either oral or in writing, that the hearing officer may request. The recipient shall be given a copy of and an opportunity to respond to any addi-

tional submissions made to the hearing officer. All submissions and responses made to the hearing officer shall become part of the administrative record.

(3) If neither party appeals the hearing officer's recommended decision within 10 business days of receipt of the recommended decision, the decision shall become final and the final decision shall be issued by the Corporation to the recipient within 5 business days.

(4) Either party may appeal the recommended decision to the President who shall review the matter and issue a final written decision pursuant to §1606.9(b).

(d) All final debarment decisions 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 but shall not be for longer than 6 years.

(e) The Corporation may reverse a debarment decision upon request for the following reasons:

(1) Newly discovered material evidence;

(2) Reversal of the conviction or civil judgment upon which the debarment was based;

(3) Bona fide change in ownership or management of a recipient;

(4) Elimination of other causes for which the debarment was imposed; or

(5) Other reasons the Corporation deems appropriate.

§ 1606.12 Time and waiver.

(a) Except for the 6-year time limit for debarments in §1606.11(d) of this part, any period of time provided in these rules may, upon good cause shown and determined, be extended in writing:

(1) By the Corporation, unless a hearing officer has been appointed;

(2) By the hearing officer, until the recommended decision has been issued; or

(3) By the President at any time.

(b) Failure by the Corporation to meet a time requirement of this part does not preclude the Corporation from terminating a recipient's grant or contract with the Corporation or imposing a limited reduction of funding.

§ 1606.13

§ 1606.13 **Interim and other funding, reprogramming, implementation.**

(a) Pending the completion of termination or limited reduction of funding proceedings under this part, the Corporation shall provide the recipient with the level of financial assistance provided for under its current grant or contract for financial assistance with the Corporation.

(b) After a final decision has been made to terminate a recipient's grant or contract or to impose a limited reduction of funding, the recipient loses all rights to the terminated or reduced funds.

(c) After a final decision has been made to terminate a recipient's grant or contract, the Corporation may authorize closeout or transition funding, or both, if necessary to enable the recipient to close or transfer current matters in a manner consistent with the recipient's professional responsibilities to its present clients.

(d) The Corporation has sole discretion to determine the manner in which the final decision is implemented. The Corporation's discretion includes, but is not limited to the decision to prorate the amount of funds reduced over the remaining disbursements in the funding term or deduct the sum in a single disbursement, or any other method the Corporation deems appropriate.

(e) Funds recovered by the Corporation pursuant to a termination or limited reduction of funding shall be reallocated by the Corporation for basic field purposes at its sole discretion.

§ 1606.14 **Recompetition.**

After a final decision has been issued by the Corporation terminating financial assistance to a recipient in whole for any service area, the Corporation shall implement a new competitive bidding process for the affected service area. Until a new recipient has been awarded a grant pursuant to such process, the Corporation shall take all practical steps to ensure the continued provision of legal assistance in the service area pursuant to § 1634.11 of this part.

45 CFR Ch. XVI (10–1–17 Edition)

PART 1607—GOVERNING BODIES

Sec.

1607.1 Purpose.

1607.2 Definitions.

1607.3 Composition.

1607.4 Functions of a governing body.

1607.5 Compensation.

1607.6 Waiver.

AUTHORITY: 42 U.S.C. 2996f(c); Pub. L. 103–317.

SOURCE: 59 FR 65254, Dec. 19, 1994, unless otherwise noted.

§ 1607.1 **Purpose.**

This part is designed to insure that the governing body of a recipient will be well qualified to guide a recipient in its efforts to provide high-quality legal assistance to those who otherwise would be unable to obtain adequate legal counsel and to insure that the recipient is accountable to its clients.

§ 1607.2 **Definitions.**

As used in this part,

(a) *Attorney member* means a board member who is an attorney admitted to practice in a State within the recipient's service area.

(b) *Board member* means a member of a recipient's governing body or policy body.

(c) *Eligible client member* means a board member who is financially eligible to receive legal assistance under the Act and part 1611 of this chapter at the time of appointment to each term of office to the recipient's governing body, without regard to whether the person actually has received or is receiving legal assistance at that time. Eligibility of client members shall be determined by the recipient or, if the recipient so chooses, by the appointing organization(s) or group(s) in accordance with written policies adopted by the recipient.

(d) *Governing body* means the board of directors or other body with authority to govern the activities of a recipient receiving funds under § 1006(a)(1)(A) of the Act.

(e) *Policy body* means a policy board or other body established by a recipient to formulate and enforce policy with respect to the services provided under a grant or contract made under the Act.

Legal Services Corporation

§ 1607.3

(f) *Recipient* means any grantee or contractor receiving financial assistance from the Corporation under §1006(a)(1)(A) of the Act.

§ 1607.3 Composition.

(a) A recipient shall be incorporated in a State in which it provides legal assistance and shall have a governing body which reasonably reflects the interests of the eligible clients in the area served and which consists of members, each of whom is supportive of the purposes of the Act and has an interest in, and knowledge of, the delivery of quality legal services to the poor.

(b) At least sixty percent (60%) of a governing body shall be attorney members.

(1) A majority of the members of the governing body shall be attorney members appointed by the governing body(ies) of one or more State, county or municipal bar associations, the membership of which represents a majority of attorneys practicing law in the localities in which the recipient provides legal assistance.

(i) Appointments may be made either by the bar association which represents a majority of attorneys in the recipient's service area or by bar associations which collectively represent a majority of the attorneys practicing law in the recipient's service area.

(ii) Recipients that provide legal assistance in more than one State may provide that appointments of attorney members be made by the appropriate bar association(s) in the State(s) or locality(ies) in which the recipient's principal office is located or in which the recipient provides legal assistance.

(2) Any additional attorney members may be selected by the recipient's governing body or may be appointed by other organizations designated by the recipient which have an interest in the delivery of legal services to the poor.

(3) Appointments shall be made so as to insure that the attorney members reasonably reflect the diversity of the legal community and the population of the areas served by the recipient, including race, ethnicity, gender and other similar factors.

(c) At least one-third of the members of a recipient's governing body shall be eligible clients when appointed. The

members who are eligible clients shall be appointed by a variety of appropriate groups designated by the recipient that may include, but are not limited to, client and neighborhood associations and community-based organizations which advocate for or deliver services or resources to the client community served by the recipient. Recipients shall designate groups in a manner that reflects, to the extent possible, the variety of interests within the client community, and eligible client members should be selected so that they reasonably reflect the diversity of the eligible client population served by the recipient, including race, gender, ethnicity and other similar factors.

(d) The remaining members of a governing body may be appointed by the recipient's governing body or selected in a manner described in the recipient's bylaws or policies, and the appointment or selection shall be made so that the governing body as a whole reasonably reflects the diversity of the areas served by the recipient, including race, ethnicity, gender and other similar factors.

(e) The nonattorney members of a governing body shall not be dominated by persons serving as the representatives of a single association, group or organization, except that eligible client members may be selected from client organizations that are composed of coalitions of numerous smaller or regionally based client groups.

(f) Members of a governing body may be selected by appointment, election, or other means consistent with this part and with the recipient's bylaws and applicable State law.

(g) Recipients shall make reasonable and good faith efforts to insure that governing body vacancies are filled as promptly as possible.

(h) Recipients may recommend candidates for governing body membership to the appropriate bar associations and other appointing groups and should consult with the appointing organizations to insure that:

(1) Appointees meet the criteria for board membership set out in this part, including financial eligibility for persons appointed as eligible clients, bar admittance requirements for attorney

§ 1607.4

board members, and the general requirements that all members be supportive of the purposes of the Act and have an interest in and knowledge of the delivery of legal services to the poor;

(2) The particular categories of board membership and the board as a whole meet the diversity requirements described in §§1607.3(b)(3), 1607.3(c) and 1607.3(d);

(3) Appointees do not have actual and significant individual or institutional conflicts of interest with the recipient or the recipient's client community that could reasonably be expected to influence their ability to exercise independent judgment as members of the recipient's governing body.

§1607.4 Functions of a governing body.

(a) A governing body shall have at least four meetings a year. A recipient shall give timely and reasonable prior public notice of all meetings, and all meetings shall be public except for those concerned with matters properly discussed in executive session in accordance with written policies adopted by the recipient's governing body.

(b) In addition to other powers and responsibilities that may be provided for by State law, a governing body shall establish and enforce broad policies governing the operation of a recipient, but neither the governing body nor any member thereof shall interfere with any attorney's professional responsibilities to a client or obligations as a member of the profession or interfere with the conduct of any ongoing representation.

(c) A governing body shall adopt bylaws which are consistent with State law and the requirements of this part. Recipients shall submit a copy of such bylaws to the Corporation and shall give the Corporation notice of any changes in such bylaws within a reasonable time after the change is made.

§1607.5 Compensation.

(a) While serving on the governing body of a recipient, no attorney member shall receive compensation from that recipient, but any member may receive a reasonable per diem expense payment or reimbursement for actual

45 CFR Ch. XVI (10–1–17 Edition)

expenses for normal travel and other reasonable out-of-pocket expenses in accordance with written policies adopted by the recipient.

(b) Pursuant to a waiver granted under §1607.6(b)(1), a recipient may adopt policies that would permit partners or associates of attorney members to participate in any compensated private attorney involvement activities supported by the recipient.

(c) A recipient may adopt policies that permit attorney members, subject to terms and conditions applicable to other attorneys in the service area:

(1) To accept referrals of fee-generating cases under part 1609 of these regulations;

(2) To participate in any uncompensated private attorney involvement activities supported by the recipient;

(3) To seek and accept attorneys' fees awarded by a court or administrative body or included in a settlement in cases undertaken pursuant to §§1607.5(c)(1) and (2); and

(4) To receive reimbursement from the recipient for out-of-pocket expenses incurred by the attorney member as part of the activities undertaken pursuant to §1607.5(c)(2).

[59 FR 65254, Dec. 19, 1994, as amended at 60 FR 2330, Jan. 9, 1995]

§1607.6 Waiver.

(a) Upon application, the president shall waive the requirements of this part to permit a recipient that was funded under §222(a)(3) of the Economic Opportunity Act of 1964 and, on July 25, 1974, had a majority of persons who were not attorneys on its governing body, to continue such nonattorney majority.

(b) Upon application, the president may waive any of the requirements of this part which are not mandated by applicable law if a recipient demonstrates that it cannot comply with them because of: (1) The nature of the population, legal community or area served; or (2) Special circumstances, including but not limited to, conflicting requirements of the recipient's other major funding source(s) or State law.

(c) A recipient seeking a waiver under §1607.6(b)(1) shall demonstrate that it has made diligent efforts to

Legal Services Corporation

§ 1608.5

comply with the requirements of this part.

(d) As a condition of granting a waiver under §1607.6(b)(2) of any of the requirements imposed upon governing bodies by §1607.3, the president shall require that a recipient have a policy body with a membership composed and appointed in the manner prescribed by §1607.3. Such policy body shall be subject to the meeting requirements of §1607.4(a) and its attorney members shall be subject to the restrictions on compensation contained in §1607.5. The policy body shall have such specific powers and responsibilities as the President determines are necessary to enable it to formulate and enforce policy with respect to the services provided under the recipient's LSC grant or contract.

PART 1608—PROHIBITED POLITICAL ACTIVITIES

Sec.

1608.1 Purpose.

1608.2 Definition.

1608.3 Prohibitions applicable to the Corporation and to recipients.

1608.4 Prohibitions applicable to all employees.

1608.5 Prohibitions applicable to Corporation employees and staff attorneys.

1608.6 Prohibitions applicable to attorneys and to staff attorneys.

1608.7 Attorney-client relationship.

1608.8 Enforcement.

AUTHORITY: Secs. 1001(5), 1005(b)(2), 1006(b)(3), 1006(b)(5)(B), 1006(d)(3), 1006(d)(4), 1006(e)(1), 1006(e)(2), 1007(a)(6), 1007(b)(2); 42 U.S.C. 2996(5), 2996d(b)(2), 2996e(b)(3), 2996e(b)(5)(B), 2996e(d)(3), 2996e(d)(4), 2996e(e)(1), 2996e(e)(2), 2996f(a)(6), 2996(b)(2).

SOURCE: 43 FR 32773, July 28, 1978, unless otherwise noted.

§ 1608.1 Purpose.

This part is designed to insure that the Corporation's resources will be used to provide high quality legal assistance and not to support or promote political activities or interests. The part should be construed and applied so as to further this purpose without infringing upon the constitutional rights of employees or the professional responsibilities of attorneys to their clients.

§ 1608.2 Definition.

Legal assistance activities, as used in this part, means any activity.

(a) Carried out during an employee's working hours;

(b) Using resources provided by the Corporation or by a recipient;

(c) That, in fact, provides legal advice, or representation to an eligible client.

§ 1608.3 Prohibitions applicable to the Corporation and to recipients.

(a) Neither the Corporation nor any recipient shall use any political test or qualification in making any decision, taking any action, or performing any function under the act.

(b) Neither the Corporation nor any recipient shall contribute or make available Corporation funds, or any personnel or equipment

(1) To any political party or association;

(2) To the campaign of any candidate for public or party office; or

(3) For use in advocating or opposing any ballot measure, initiative, or referendum.

§ 1608.4 Prohibitions applicable to all employees.

(a) No employee shall intentionally identify the Corporation or a recipient with any partisan or nonpartisan political activity, or with the campaign of any candidate for public or party office.

(b) No employee shall use any Corporation funds for activities prohibited to attorneys under §1608.6; nor shall an employee intentionally identify or encourage others to identify the Corporation or a recipient with such activities.

§ 1608.5 Prohibitions applicable to Corporation employees and to staff attorneys.

While employed under the act, no Corporation employee and no staff attorney shall, at any time,

(a) Use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office, whether partisan or nonpartisan;

(b) Directly or indirectly coerce, attempt to coerce, command or advise an employee of the Corporation or of any

§ 1608.6

recipient to pay, lend, or contribute anything of value to a political party, or committee, organization, agency or person for political purposes; or

(c) Be a candidate for partisan elective public office.

§ 1608.6 Prohibitions applicable to attorneys and to staff attorneys.

While engaged in legal assistance activities supported under the act, no attorney shall engage in

(a) Any political activity,

(b) Any activity to provide voters with transportation to the polls, or to provide similar assistance in connection with an election, or

(c) Any voter registration activity.

§ 1608.7 Attorney-client relationship.

Nothing in this part is intended to prohibit an attorney or staff attorney from providing any form of legal assistance to an eligible client, or to interfere with the fulfillment of any attorney's professional responsibilities to a client.

§ 1608.8 Enforcement.

This part shall be enforced according to the procedures set forth in § 1612.5.

PART 1609—FEE-GENERATING CASES

Sec.

1609.1 Purpose.

1609.2 Definitions.

1609.3 Authorized representation in a fee-generating case.

1609.4 Requesting and receiving attorneys' fees.

1609.5 Receiving reimbursement from a client.

1609.6 Recipient policies, procedures and recordkeeping.

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

SOURCE: 62 FR 19399, Apr. 21, 1997, unless otherwise noted.

§ 1609.1 Purpose.

This part is designed:

(a) To ensure that recipients do not use scarce legal services resources when private attorneys are available to provide effective representation and

(b) To assist eligible clients to obtain appropriate and effective legal assistance.

45 CFR Ch. XVI (10–1–17 Edition)

§ 1609.2 Definitions.

(a) *Fee-generating case* means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client.

(b) *Fee-generating case* does not include a case where:

(1) A court appoints a recipient or an employee of a recipient to provide representation in a case pursuant to a statute or a court rule or practice equally applicable to all attorneys in the jurisdiction;

(2) A recipient undertakes representation under a contract with a government agency or other entity; or

(3) A recipient provides only advice and counsel or limited services, as those terms are defined in 45 CFR 1611.1(a) and (e), to an eligible client.

[62 FR 19399, Apr. 21, 1997, as amended at 82 FR 20446, May 2, 2017]

§ 1609.3 Authorized representation in a fee-generating case.

(a) Except as provided in paragraph (b) of this section, a recipient may not use Corporation funds to provide legal assistance in a fee-generating case unless:

(1) The case has been rejected by the local lawyer referral service, or by two private attorneys; or

(2) Neither the referral service nor two private attorneys will consider the case without payment of a consultation fee.

(b) A recipient may provide legal assistance in a fee-generating case without first attempting to refer the case pursuant to paragraph (a) of this section only when:

(1) An eligible client is seeking benefits under Subchapter II of the Social Security Act, 42 U.S.C. 401 *et seq.*, as amended, Federal Old Age, Survivors, and Disability Insurance Benefits; or Subchapter XVI of the Social Security Act, 42 U.S.C. 1381 *et seq.*, as amended, Supplemental Security Income for Aged, Blind, and Disabled;

(2) The recipient, after consultation with appropriate representatives of the private bar, has determined that the type of case is one that private attorneys in the area served by the recipient

Legal Services Corporation

§ 1610.2

ordinarily do not accept, or do not accept without prepayment of a fee; or

(3) The director of the recipient, or the director's designee, has determined that referral of the case to the private bar is not possible because:

(i) Documented attempts to refer similar cases in the past generally have been futile;

(ii) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate, and consistent with professional responsibility, referral will be attempted at a later time; or

(iii) Recovery of damages is not the principal object of the recipient's client's case and substantial statutory attorneys' fees are not likely to be available.

[62 FR 19399, Apr. 21, 1997, as amended at 75 FR 6818, Feb. 11, 2010; 76 FR 23504, Apr. 27, 2011; 82 FR 20447, May 2, 2017]

§ 1609.4 Requesting and receiving attorneys' fees.

(a) Any petition seeking attorneys' fees for representation supported in whole or in part with funds provided by LSC, shall, to the extent permitted by law and rules in the jurisdiction, be filed in the name of the recipient.

(b) Attorneys' fees received by a recipient or an employee of a recipient for representation supported in whole or in part with funds provided by LSC shall be allocated to the fund in which the recipient's LSC grant is recorded in the same proportion that the amount of LSC funds expended bears to the total amount expended by the recipient to support the representation.

(c) Attorneys' fees received shall be recorded during the accounting period in which the money from the fee award is actually received by the recipient and may be expended for any purpose permitted by the LSC Act, regulations, and other law applicable at the time the money is received.

[82 FR 20447, May 2, 2017]

§ 1609.5 Receiving reimbursement from a client.

(a) When a case results in recovery of damages or statutory benefits, a recipient may accept reimbursement from the client for out-of-pocket costs and expenses incurred in connection with

the case, if the client has agreed in writing to reimburse the recipient for such costs and expenses out of any such recovery.

(b) A recipient may require a client to pay court costs when the client does not qualify to proceed *in forma pauperis* under the rules of the jurisdiction.

[75 FR 6818, Feb. 11, 2010, as amended at 82 FR 20447, May 2, 2017]

§ 1609.6 Recipient policies, procedures and recordkeeping.

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

[62 FR 19399, Apr. 21, 1997. Redesignated at 75 FR 6818, Feb. 11, 2010]

PART 1610—USE OF NON-LSC FUNDS, TRANSFERS OF LSC FUNDS, PROGRAM INTEGRITY

Sec.

- 1610.1 Purpose.
- 1610.2 Definitions.
- 1610.3 Prohibition.
- 1610.4 Authorized use of non-LSC funds.
- 1610.5 Notification.
- 1610.6 Applicability.
- 1610.7 Program integrity of recipient.
- 1610.8 Accounting.

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

SOURCE: 62 FR 27698, May 21, 1997, unless otherwise noted.

§ 1610.1 Purpose.

This part is designed to implement statutory restrictions on the use of non-LSC funds by LSC recipients and to ensure that no LSC-funded entity shall engage in any restricted activities and that recipients maintain objective integrity and independence from organizations that engage in restricted activities.

§ 1610.2 Definitions.

(a) *Purpose prohibited by the LSC Act* means any activity prohibited by the following sections of the LSC Act and those provisions of the Corporation's regulations that implement such sections of the Act:

§ 1610.3

(1) Sections 1006(d)(3), 1006(d)(4), 1007(a)(6), and 1007(b)(4) of the LSC Act and 45 CFR part 1608 of the LSC Regulations (Political activities);

(2) Section 1007(a)(10) of the LSC Act (Activities inconsistent with professional responsibilities);

(3) Section 1007(b)(1) of the LSC Act and 45 CFR part 1609 of the LSC Regulations (Fee-generating cases);

(4) Section 1007(b)(2) of the LSC Act and 45 CFR part 1613 of the LSC Regulations (Criminal proceedings);

(5) Section 1007(b)(3) of the LSC Act and 45 CFR part 1615 of the LSC Regulations (Actions challenging criminal convictions);

(6) Section 1007(b)(7) of the LSC Act and 45 CFR part 1612 of the LSC Regulations (Organizing activities);

(7) Section 1007(b)(8) of the LSC Act (Abortions);

(8) Section 1007(b)(9) of the LSC Act (School desegregation); and

(9) Section 1007(b)(10) of the LSC Act (Violations of Military Selective Service Act or military desertion).

(b) *Activity prohibited by or inconsistent with Section 504* means any activity prohibited by, or inconsistent with the requirements of, the following sections of 110 Stat. 1321 (1996) and those provisions of the Corporation's regulations that implement those sections:

(1) Section 504(a)(1) and 45 CFR part 1632 of the LSC Regulations (Redistricting);

(2) Sections 504(a) (2) through (6), as modified by Sections 504 (b) and (e), and 45 CFR part 1612 of the LSC Regulations (Legislative and administrative advocacy);

(3) Section 504(a)(7) and 45 CFR part 1617 of the LSC Regulations (Class actions);

(4) Section 504(a)(8) and 45 CFR part 1636 of the LSC Regulations (Client identification and statement of facts);

(5) Section 504(a)(9) and 45 CFR part 1620 of the LSC Regulations (Priorities);

(6) Section 504(a)(10) and 45 CFR part 1635 of the LSC Regulations (Timekeeping);

(7) Section 504(a)(11) and 45 CFR part 1626 of the LSC Regulations (Aliens);

(8) Section 504(a)(12) and 45 CFR part 1612 of the LSC Regulations (Public policy training);

45 CFR Ch. XVI (10–1–17 Edition)

(9) Section 504(a)(14) (Abortion litigation);

(10) Section 504(a)(15) and 45 CFR part 1637 of the LSC Regulations (Prisoner litigation);

(11) Section 504(a)(16), as modified by Section 504(e), and 45 CFR part 1639 of the LSC Regulations (Welfare reform);

(12) Section 504(a)(17) and 45 CFR part 1633 of the LSC Regulations (Drug-related evictions); and

(13) Section 504(a)(18) and 45 CFR part 1638 of the LSC Regulations (In-person solicitation).

(c) *IOLTA funds* means funds derived from programs established by State court rules or legislation that collect and distribute interest on lawyers' trust accounts.

(d) *Non-LSC funds* means funds derived from a source other than the Corporation.

(e) *Private funds* means funds derived from an individual or entity other than a governmental source or LSC.

(f) *Public funds* means non-LSC funds derived from a Federal, State, or local government or instrumentality of a government. For purposes of this part, IOLTA funds shall be treated in the same manner as public funds.

(g) *Transfer* means a payment of LSC funds by a recipient to a person or entity for the purpose of conducting programmatic activities that are normally conducted by the recipient, such as the representation of eligible clients, or that provide direct support to the recipient's legal assistance activities. *Transfer* does not include any payment of LSC funds to vendors, accountants or other providers of goods and services made by the recipient in the normal course of business.

(h) *Tribal funds* means funds received from an Indian tribe or from a private nonprofit foundation or organization for the benefit of Indians or Indian tribes.

[62 FR 27698, May 21, 1997, as amended at 75 FR 6818, Feb. 11, 2010]

§ 1610.3 Prohibition.

A recipient may not use non-LSC funds for any purpose prohibited by the LSC Act or for any activity prohibited by or inconsistent with Section 504, unless such use is authorized by §§ 1610.4, 1610.6 or 1610.7 of this part.

Legal Services Corporation

§ 1610.8

§ 1610.4 Authorized use of non-LSC funds.

(a) A recipient may receive tribal funds and expend them in accordance with the specific purposes for which the tribal funds were provided.

(b) A recipient may receive public or IOLTA funds and use them in accordance with the specific purposes for which they were provided, if the funds are not used for any activity prohibited by or inconsistent with Section 504.

(c) A recipient may receive private funds and use them in accordance with the purposes for which they were provided, provided that the funds are not used for any activity prohibited by the LSC Act or prohibited or inconsistent with Section 504.

(d) A recipient may use non-LSC funds to provide legal assistance to an individual who is not financially eligible for services under part 1611 of this chapter, provided that the funds are used for the specific purposes for which those funds were provided and are not used for any activity prohibited by the LSC Act or prohibited by or inconsistent with Section 504.

§ 1610.5 Notification.

(a) Except as provided in paragraph (b) of this section, no recipient may accept funds from any source other than the Corporation, unless the recipient provides to the source of the funds written notification of the prohibitions and conditions which apply to the funds.

(b) A recipient is not required to provide such notification for receipt of contributions of less than \$250.

§ 1610.6 Applicability.

Notwithstanding § 1610.7(a), the prohibitions referred to in §§ 1610.2(a)(4) (Criminal proceedings), (a)(5) (Actions challenging criminal convictions), (b)(7) (Aliens) or (b)(11) (Prisoner litigation) of this part will not apply to:

(a) A recipient's or subrecipient's separately funded public defender program or project; or

(b) Criminal or related cases accepted by a recipient or subrecipient pursuant to a court appointment.

§ 1610.7 Program integrity of recipient.

(a) A recipient must have objective integrity and independence from any organization that engages in restricted activities. A recipient will be found to have objective integrity and independence from such an organization if:

(1) The other organization is a legally separate entity;

(2) The other organization receives no LSC funds from the recipient, and LSC funds do not subsidize restricted activities; and

(3) The recipient is physically and financially separate from the other organization. Mere bookkeeping separation of LSC funds from other funds is not sufficient. Whether sufficient physical and financial separation exists will be determined on a case-by-case basis and will be based on the totality of the facts. The presence or absence of any one or more factors will not be determinative. Factors relevant to this determination shall include but will not be limited to:

(i) The existence of separate personnel;

(ii) The existence of separate accounting and timekeeping records;

(iii) The degree of separation from facilities in which restricted activities occur, and the extent of such restricted activities; and

(iv) The extent to which signs and other forms of identification which distinguish the recipient from the organization are present.

(b) Each recipient's governing body must certify to the Corporation within 180 days of the effective date of this part that the recipient is in compliance with the requirements of this section. Thereafter, the recipient's governing body must certify such compliance to the Corporation on an annual basis.

[62 FR 27698, May 21, 1997. Redesignated and amended at 82 FR 10283, Feb. 10, 2017]

§ 1610.8 Accounting.

Funds received by a recipient from a source other than the Corporation shall be accounted for as separate and distinct receipts and disbursements in a manner directed by the Corporation.

[62 FR 27698, May 21, 1997. Redesignated at 82 FR 10283, Feb. 10, 2017]

PART 1611—FINANCIAL ELIGIBILITY

Sec.

1611.1 Purpose.

1611.2 Definitions.

1611.3 Financial eligibility policies.

1611.4 Financial eligibility for legal assistance.

1611.5 Authorized exceptions to the recipient's annual income ceiling.

1611.6 Representation of groups.

1611.7 Manner of determining financial eligibility.

1611.8 Changes in financial eligibility status.

1611.9 Retainer agreements.

APPENDIX A TO PART 1611—INCOME LEVEL FOR INDIVIDUALS ELIGIBLE FOR ASSISTANCE

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

SOURCE: 70 FR 45562, Aug. 8, 2005, unless otherwise noted.

§ 1611.1 Purpose.

This part sets forth requirements relating to the financial eligibility of individual applicants for legal assistance supported with LSC funds and recipients' responsibilities in making financial eligibility determinations. This part is not intended to and does not create any entitlement to service for persons deemed financially eligible. This part also seeks to ensure that financial eligibility is determined in a manner conducive to development of an effective attorney-client relationship. In addition, this part sets forth standards relating to the eligibility of groups for legal assistance supported with LSC funds. Finally, this part sets forth requirements relating to recipients' responsibilities in executing retainer agreements with clients.

§ 1611.2 Definitions.

(a) "Advice and counsel" means legal assistance that is limited to the review of information relevant to the client's legal problem(s) and counseling the client on the relevant law and/or suggested course of action. Advice and counsel does not encompass drafting of documents or making third-party contacts on behalf of the client.

(b) "Applicable rules of professional responsibility" means the rules of ethics and professional responsibility generally applicable to attorneys in the jurisdiction where the recipient provides legal services.

(c) "Applicant" means an individual who is seeking legal assistance supported with LSC funds from a recipient. The term does not include a group, corporation or association.

(d) "Assets" means cash or other resources of the applicant or members of the applicant's household that are readily convertible to cash, which are currently and actually available to the applicant.

(e) "Brief services" means legal assistance in which the recipient undertakes to provide a discrete and time-limited service to a client beyond advice and consultation, including but not limited to activities, such as the drafting of documents or making limited third party contacts on behalf of a client.

(f) "Extended service" means legal assistance characterized by the performance of multiple tasks incident to continuous representation. Examples of extended service would include representation of a client in litigation, an administrative adjudicative proceeding, alternative dispute resolution proceeding, extended negotiations with a third party, or other legal representation in which the recipient undertakes responsibility for protecting or advancing a client's interest beyond advice and counsel or brief services.

(g) "Governmental program for low income individuals or families" means any Federal, State or local program that provides benefits of any kind to persons whose eligibility is determined on the basis of financial need.

(h) "Governmental program for persons with disabilities" means any Federal, State or local program that provides benefits of any kind to persons whose eligibility is determined on the basis of mental and/or physical disability.

(i) "Income" means actual current annual total cash receipts before taxes of all persons who are resident members and contribute to the support of an applicant's household, as that term is defined by the recipient. Total cash receipts include, but are not limited to, wages and salaries before any deduction; income from self-employment after deductions for business or farm expenses; regular payments from governmental programs for low income

persons or persons with disabilities; social security payments; unemployment and worker's compensation payments; strike benefits from union funds; veterans benefits; training stipends; alimony; child support payments; military family allotments; public or private employee pension benefits; regular insurance or annuity payments; income from dividends, interest, rents, royalties or from estates and trusts; and other regular or recurring sources of financial support that are currently and actually available to the applicant. Total cash receipts do not include the value of food or rent received by the applicant in lieu of wages; money withdrawn from a bank; tax refunds; gifts; compensation and/or one-time insurance payments for injuries sustained; non-cash benefits; and up to \$2,000 per year of funds received by individual Native Americans that is derived from Indian trust income or other distributions exempt by statute.

§ 1611.3 Financial eligibility policies.

(a) The governing body of a recipient shall adopt policies consistent with this part for determining the financial eligibility of applicants and groups. The governing body shall review its financial eligibility policies at least once every three years and make adjustments as necessary. The recipient shall implement procedures consistent with its policies.

(b) As part of its financial eligibility policies, every recipient shall specify that only individuals and groups determined to be financially eligible under the recipient's financial eligibility policies and LSC regulations may receive legal assistance supported with LSC funds.

(c)(1) As part of its financial eligibility policies, every recipient shall establish annual income ceilings for individuals and households, which may not exceed one hundred and twenty five percent (125%) of the current official Federal Poverty Guidelines amounts. The Corporation shall annually calculate 125% of the Federal Poverty Guidelines amounts and publish such calculations in the FEDERAL REGISTER as a revision to Appendix A to this part.

(2) As part of its financial eligibility policies, a recipient may adopt authorized exceptions to its annual income ceilings consistent with §1611.5.

(d)(1) As part of its financial eligibility policies, every recipient shall establish reasonable asset ceilings for individuals and households. In establishing asset ceilings, the recipient may exclude consideration of a household's principal residence, vehicles used for transportation, assets used in producing income, and other assets which are exempt from attachment under State or Federal law.

(2) The recipient's policies may provide authority for waiver of its asset ceilings for specific applicants under unusual circumstances and when approved by the recipient's Executive Director, or his/her designee. When the asset ceiling is waived, the recipient shall record the reasons for such waiver and shall keep such records as are necessary to inform the Corporation of the reasons for such waiver.

(e) Notwithstanding any other provision of this part, or other provision of the recipient's financial eligibility policies, every recipient shall specify as part of its financial eligibility policies that in assessing the income or assets of an applicant who is a victim of domestic violence, the recipient shall consider only the assets and income of the applicant and members of the applicant's household other than those of the alleged perpetrator of the domestic violence and shall not include any assets held by the alleged perpetrator of the domestic violence, jointly held by the applicant with the alleged perpetrator of the domestic violence, or assets jointly held by any member of the applicant's household with the alleged perpetrator of the domestic violence.

(f) As part of its financial eligibility policies, a recipient may adopt policies that permit financial eligibility to be established by reference to an applicant's receipt of benefits from a governmental program for low-income individuals or families consistent with §1611.4(c).

(g) Before establishing its financial eligibility policies, a recipient shall consider the cost of living in the service area or locality and other relevant factors, including but not limited to:

§ 1611.4

(1) The number of clients who can be served by the resources of the recipient;

(2) The population that would be eligible at and below alternative income and asset ceilings; and

(3) The availability and cost of legal services provided by the private bar and other free or low cost legal services providers in the area.

§ 1611.4 Financial eligibility for legal assistance.

(a) A recipient may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance. Nothing in this part, however, prohibits a recipient from providing legal assistance to an individual without regard to that individual's income and assets if the legal assistance is wholly supported by funds from a source other than LSC, and is otherwise permissible under applicable law and regulation.

(b) Consistent with the recipient's financial eligibility policies and this part, the recipient may determine an applicant to be financially eligible for legal assistance if the applicant's assets do not exceed the recipient's applicable asset ceiling established pursuant to § 1611.3(d)(1), or the applicable asset ceiling has been waived pursuant to § 1611.3(d)(2), and:

(1) The applicant's income is at or below the recipient's applicable annual income ceiling; or

(2) The applicant's income exceeds the recipient's applicable annual income ceiling but one or more of the authorized exceptions to the annual income ceilings, as provided in § 1611.5, applies.

(c) Consistent with the recipient's policies, a recipient may determine an applicant to be financially eligible without making an independent determination of income or assets, if the applicant's income is derived solely from a governmental program for low-income individuals or families, provided that the recipient's governing body has determined that the income standards of the governmental program are at or below 125% of the Federal Poverty Guidelines amounts and that the gov-

45 CFR Ch. XVI (10–1–17 Edition)

ernmental program has eligibility standards which include an assets test.

§ 1611.5 Authorized exceptions to the annual income ceiling.

(a) Consistent with the recipient's policies and this part, a recipient may determine an applicant whose income exceeds the recipient's applicable annual income ceiling to be financially eligible if the applicant's assets do not exceed the recipient's applicable asset ceiling established pursuant to § 1611.3(d), or the asset ceiling has been waived pursuant to § 1611.3(d)(2), and:

(1) The applicant is seeking legal assistance to maintain benefits provided by a governmental program for low income individuals or families; or

(2) The Executive Director of the recipient, or his/her designee, has determined on the basis of documentation received by the recipient, that the applicant's income is primarily committed to medical or nursing home expenses and that, excluding such portion of the applicant's income which is committed to medical or nursing home expenses, the applicant would otherwise be financially eligible for service; or

(3) The applicant's income does not exceed 200% of the applicable Federal Poverty Guidelines amount and:

(i) The applicant is seeking legal assistance to obtain governmental benefits for low income individuals and families; or

(ii) The applicant is seeking legal assistance to obtain or maintain governmental benefits for persons with disabilities; or

(4) The applicant's income does not exceed 200% of the applicable Federal Poverty Guidelines amount and the recipient has determined that the applicant should be considered financially eligible based on consideration of one or more of the following factors as applicable to the applicant or members of the applicant's household:

(i) Current income prospects, taking into account seasonal variations in income;

(ii) Unreimbursed medical expenses and medical insurance premiums;

(iii) Fixed debts and obligations;

Legal Services Corporation

§ 1611.7

(iv) Expenses such as dependent care, transportation, clothing and equipment expenses necessary for employment, job training, or educational activities in preparation for employment;

(v) Non-medical expenses associated with age or disability;

(vi) Current taxes; or

(vii) Other significant factors that the recipient has determined affect the applicant's ability to afford legal assistance.

(b) In the event that a recipient determines that an applicant is financially eligible pursuant to this section and is provided legal assistance, the recipient shall document the basis for the financial eligibility determination. The recipient shall keep such records as may be necessary to inform the Corporation of the specific facts and factors relied on to make such determination.

§ 1611.6 Representation of groups.

(a) A recipient may provide legal assistance to a group, corporation, association or other entity if it provides information showing that it lacks, and has no practical means of obtaining, funds to retain private counsel and either:

(1) The group, or for a non-membership group the organizing or operating body of the group, is primarily composed of individuals who would be financially eligible for LSC-funded legal assistance; or

(2) The group has as a principal activity the delivery of services to those persons in the community who would be financially eligible for LSC-funded legal assistance and the legal assistance sought relates to such activity.

(b)(1) In order to make a determination that a group, corporation, association or other entity is eligible for legal services as required by paragraph (a) of this section, a recipient shall consider the resources available to the group, such as the group's income and income prospects, assets and obligations and either:

(i) For a group primarily composed of individuals who would be financially eligible for LSC-funded legal assistance, whether the financial or other socioeconomic characteristics of the persons comprising the group are con-

sistent with those of persons who are financially eligible for LSC-funded legal assistance; or

(ii) For a group having as a principal activity the delivery of services to those persons in the community who would be financially eligible for LSC-funded legal assistance, whether the financial or other socioeconomic characteristics of the persons served by the group are consistent with those of persons who are financially eligible for LSC-funded legal assistance and the assistance sought relates to such activity of the group.

(2) A recipient shall collect information that reasonably demonstrates that the group, corporation, association or other entity meets the eligibility criteria set forth herein.

(c) The eligibility requirements set forth herein apply only to legal assistance supported by funds from LSC, provided that any legal assistance provided by a recipient, regardless of the source of funds supporting the assistance, must be otherwise permissible under applicable law and regulation.

§ 1611.7 Manner of determining financial eligibility.

(a)(1) In making financial eligibility determinations regarding individual applicants, a recipient shall make reasonable inquiry regarding sources of the applicant's income, income prospects and assets. The recipient shall record income and asset information in the manner specified in this section.

(2) In making financial eligibility determinations regarding groups seeking LSC-supported legal assistance, a recipient shall follow the requirements set forth in § 1611.6(b) of this part.

(b) A recipient shall adopt simple intake forms and procedures to obtain information from applicants and groups to determine financial eligibility in a manner that promotes the development of trust between attorney and client. The forms shall be preserved by the recipient.

(c) If there is substantial reason to doubt the accuracy of the financial eligibility information provided by an applicant or group, a recipient shall make appropriate inquiry to verify the information, in a manner consistent with the attorney-client relationship.

§ 1611.8

(d) When one recipient has determined that a client is financially eligible for service in a particular case or matter, that recipient may request another recipient to extend legal assistance or undertake representation on behalf of that client in the same case or matter in reliance upon the initial financial eligibility determination. In such cases, the receiving recipient is not required to review or redetermine the client's financial eligibility unless there is a change in financial eligibility status as described in §1611.8 or there is substantial reason to doubt the validity of the original determination, provided that the referring recipient provides and the receiving recipient retains a copy of the intake form documenting the financial eligibility of the client.

§ 1611.8 Change in financial eligibility status.

(a) If, after making a determination of financial eligibility and accepting a client for service, the recipient becomes aware that a client has become financially ineligible through a change in circumstances, a recipient shall discontinue representation supported with LSC funds if the change in circumstances is sufficient, and is likely to continue, to enable the client to afford private legal assistance, and discontinuation is not inconsistent with applicable rules of professional responsibility.

45 CFR Ch. XVI (10–1–17 Edition)

(b) If, after making a determination of financial eligibility and accepting a client for service, the recipient later determines that the client is financially ineligible on the basis of later discovered or disclosed information, a recipient shall discontinue representation supported with LSC funds if the discontinuation is not inconsistent with applicable rules of professional responsibility.

§ 1611.9 Retainer agreements.

(a) When a recipient provides extended service to a client, the recipient shall execute a written retainer agreement with the client. The retainer agreement shall be executed when representation commences or as soon thereafter as is practicable. Such retainer agreement must be in a form consistent with the applicable rules of professional responsibility and prevailing practices in the recipient's service area and shall include, at a minimum, a statement identifying the legal problem for which representation is sought, and the nature of the legal services to be provided.

(b) No written retainer agreement is required for advice and counsel or brief service provided by the recipient to the client or for legal services provided to the client by a private attorney pursuant to 45 CFR part 1614.

(c) The recipient shall maintain copies of all retainer agreements generated in accordance with this section.

PART 1611—ELIGIBILITY

■ 1. The authority citation for part 1611 continues to read as follows:

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

■ 2. Revise appendix A to part 1611 to read as follows:

Appendix A to Part 1611— Income Level for Individuals Eligible for Assistance

LEGAL SERVICES CORPORATION 2018 INCOME GUIDELINES *

Size of household	48 Contiguous States and the District of Columbia	Alaska	Hawaii
1	\$15,175	\$18,975	\$17,450
2	20,575	25,725	23,663
3	25,975	32,475	29,875
4	31,375	39,225	36,088
5	36,775	45,975	42,300
6	42,175	52,725	48,513
7	47,575	59,475	54,725
8	52,975	66,225	60,938
For each additional member of the household in excess of 8, add:	5,400	6,750	6,213

* The figures in this table represent 125% of the Federal Poverty Guidelines by household size as determined by HHS.

REFERENCE CHART—200% OF FEDERAL POVERTY GUIDELINES

Size of household	48 Contiguous States and the District of Columbia	Alaska	Hawaii
1	\$24,280	\$30,360	\$27,920
2	32,920	41,160	37,860
3	41,560	51,960	47,800
4	50,200	62,760	57,740
5	58,840	73,560	67,680
6	67,480	84,360	77,620
7	76,120	95,160	87,560
8	84,760	105,960	97,500
For each additional member of the household in excess of 8, add:	8,640	10,800	9,940

Dated: January 18, 2018.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2018-01138 Filed 1-22-18; 8:45 am]

BILLING CODE 7050-01-P

PART 1612—RESTRICTIONS ON LOBBYING AND CERTAIN OTHER ACTIVITIES

- Sec.
- 1612.1 Purpose.
- 1612.2 Definitions.
- 1612.3 Prohibited legislative and administrative activities.
- 1612.4 Grassroots lobbying.
- 1612.5 Permissible activities using any funds.
- 1612.6 Permissible activities using non-LSC funds.
- 1612.7 Public demonstrations and activities.
- 1612.8 Training.
- 1612.9 Organizing.
- 1612.10 Recordkeeping and accounting for activities funded with non-LSC funds.
- 1612.11 Recipient policies and procedures.

AUTHORITY: Pub. L. 104-208, 110 Stat. 3009; Pub. L. 104-134, 110 Stat. 1321, secs. 504(a) (2), (3), (4), (5), (6), and (12), 504 (b) and (e); 42 U.S.C. 2996e(b)(5), 2996f(a) (5) and (6), 2996f(b) (4), (6) and (7), and 2996g(e).

SOURCE: 62 FR 19404, Apr. 21, 1997, unless otherwise noted.

§ 1612.1 Purpose.

The purpose of this part is to ensure that LSC recipients and their employees do not engage in certain prohibited activities, including representation before legislative bodies or other direct lobbying activity, grassroots lobbying, participation in rulemaking, public demonstrations, advocacy training, and certain organizing activities. The part also provides guidance on when recipients may participate in public rulemaking or in efforts to encourage State or local governments to make funds available to support recipient activities, and when they may respond to

requests of legislative and administrative officials.

§ 1612.2 Definitions.

(a)(1) *Grassroots lobbying* means any oral, written or electronically transmitted communication or any advertisement, telegram, letter, article, newsletter, or other printed or written matter or device which contains a direct suggestion to the public to contact public officials in support of or in opposition to pending or proposed legislation, regulations, executive decisions, or any decision by the electorate on a measure submitted to it for a vote. It also includes the provision of financial contributions by recipients to, or participation by recipients in, any demonstration, march, rally, fundraising drive, lobbying campaign, letter writing or telephone campaign for the purpose of influencing the course of such legislation, regulations, decisions by administrative bodies, or any decision by the electorate on a measure submitted to it for a vote.

(2) *Grassroots lobbying* does not include communications which are limited solely to reporting on the content or status of, or explaining, pending or proposed legislation or regulations.

(b)(1) *Legislation* means any action or proposal for action by Congress or by a State or local legislative body which is intended to prescribe law or public policy. The term includes, but is not limited to, action on bills, constitutional amendments, ratification of treaties and intergovernmental agreements, approval of appointments and budgets,

§ 1612.3

and approval or disapproval of actions of the executive.

(2) *Legislation* does not include those actions of a legislative body which adjudicate the rights of individuals under existing laws; nor does it include legislation adopted by an Indian Tribal Council.

(c) *Public policy* means an overall plan embracing the general goals and procedures of any governmental body and pending or proposed statutes, rules, and regulations.

(d)(1) *Rulemaking* means any agency process for formulating, amending, or repealing rules, regulations or guidelines of general applicability and future effect issued by the agency pursuant to Federal, State or local rulemaking procedures, including:

(i) The customary procedures that are used by an agency to formulate and adopt proposals for the issuance, amendment or revocation of regulations or other statements of general applicability and future effect, such as negotiated rulemaking and “notice and comment” rulemaking procedures under the Federal Administrative Procedure Act or similar procedures used by State or local government agencies; and

(ii) Adjudicatory proceedings that are formal adversarial proceedings to formulate or modify an agency policy of general applicability and future effect.

(2) *Rulemaking* does not include:

(i) Administrative proceedings that produce determinations that are of particular, rather than general, applicability and affect only the private rights, benefits or interests of individuals, such as Social Security hearings, welfare fair hearings, or granting or withholding of licenses;

(ii) Communication with agency personnel for the purpose of obtaining information, clarification, or interpretation of the agency’s rules, regulations, guidelines, policies or practices.

(e) *Public rulemaking* means any rulemaking proceeding or portion of such proceeding or procedure that is open to the public through notices of proposed rulemaking published in the FEDERAL REGISTER or similar State or local journals, announcements of public hearings on proposed rules or notices of

45 CFR Ch. XVI (10–1–17 Edition)

proposed rulemaking including those that are routinely sent to interested members of the public, or other similar notifications to members of the public;

(f) *Similar procedure* refers to a legislative process by which matters must be determined by a vote of the electorate.

[62 FR 19404, Apr. 21, 1997; 62 FR 22895, Apr. 28, 1997]

§ 1612.3 Prohibited legislative and administrative activities.

(a) Except as provided in §§1612.5 and 1612.6, recipients shall not attempt to influence:

(1) The passage or defeat of any legislation or constitutional amendment;

(2) Any initiative, or any referendum or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body acting in any legislative capacity;

(3) Any provision in a legislative measure appropriating funds to, or defining or limiting the functions or authority of, the recipient or the Corporation; or,

(4) The conduct of oversight proceedings concerning the recipient or the Corporation.

(b) Except as provided in §§1612.5 and 1612.6, recipients shall not participate in or attempt to influence any rulemaking, or attempt to influence the issuance, amendment or revocation of any executive order.

(c) Recipients shall not use any funds to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, administrative expense, or related expense associated with an activity prohibited in paragraphs (a) and (b) in this section.

§ 1612.4 Grassroots lobbying.

A recipient shall not engage in any grassroots lobbying.

§ 1612.5 Permissible activities using any funds.

(a) A recipient may provide administrative representation for an eligible client in a proceeding that adjudicates the particular rights or interests of such eligible client or in negotiations directly involving that client’s legal rights or responsibilities, including

Legal Services Corporation

§ 1612.7

pre-litigation negotiation and negotiation in the course of litigation.

(b) A recipient may initiate or participate in litigation challenging agency rules, regulations, guidelines or policies, unless such litigation is otherwise prohibited by law or Corporation regulations.

(c) Nothing in this part is intended to prohibit a recipient from:

(1) Applying for a governmental grant or contract;

(2) Communicating with a governmental agency for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations, practices, or policies;

(3) Informing clients, other recipients, or attorneys representing eligible clients about new or proposed statutes, executive orders, or administrative regulations;

(4) Communicating directly or indirectly with the Corporation for any purpose including commenting upon existing or proposed Corporation rules, regulations, guidelines, instructions and policies;

(5) Permitting its employees to participate in bar association activities, provided that recipient resources are not used to support and the recipient is not identified with activities of bar associations that are devoted to activities prohibited by this part.

(6) Advising a client of the client's right to communicate directly with an elected official; or

(7) Participating in activity related to the judiciary, such as the promulgation of court rules, rules of professional responsibility and disciplinary rules.

§ 1612.6 Permissible activities using non-LSC funds.

(a) If the conditions of paragraphs (b) and (c) of this section are met, recipients and their employees may use non-LSC funds to respond to a written request from a governmental agency or official thereof, elected official, legislative body, committee, or member thereof made to the employee, or to a recipient to:

(1) Testify orally or in writing;

(2) Provide information which may include analysis of or comments upon existing or proposed rules, regulations

or legislation, or drafts of proposed rules, regulations or legislation; or

(3) Participate in negotiated rulemaking under the Negotiated Rulemaking Act of 1990, 5 U.S.C. 561, *et seq.*, or comparable State or local laws.

(b) Communications made in response to requests under paragraph (a) may be distributed only to the party or parties that made the request and to other persons or entities only to the extent that such distribution is required to comply with the request.

(c) No employee of the recipient shall solicit or arrange for a request from any official to testify or otherwise provide information in connection with legislation or rulemaking.

(d) Recipients shall maintain copies of all written requests received by the recipient and written responses made in response thereto and make such requests and written responses available to monitors and other representatives of the Corporation upon request.

(e) Recipients may use non-LSC funds to provide oral or written comment to an agency and its staff in a public rulemaking proceeding.

(f) Recipients may use non-LSC funds to contact or communicate with, or respond to a request from, a State or local government agency, a State or local legislative body or committee, or a member thereof, regarding funding for the recipient, including a pending or proposed legislative or agency proposal to fund such recipient.

§ 1612.7 Public demonstrations and activities.

(a) During working hours, while providing legal assistance or representation to the recipient's clients or while using recipient resources provided by the Corporation or by private entities, no person shall:

(1) Participate in any public demonstration, picketing, boycott, or strike, except as permitted by law in connection with the employee's own employment situation; or

(2) Encourage, direct, or coerce others to engage in such activities.

(b) No employee of a recipient shall at any time engage in or encourage others to engage in any:

(1) Rioting or civil disturbance;

§ 1612.8

(2) Activity determined by a court to be in violation of an outstanding injunction of any court of competent jurisdiction; or

(3) Other illegal activity that is inconsistent with an employee's responsibilities under applicable law, Corporation regulations, or the rules of professional responsibility of the jurisdiction where the recipient is located or the employee practices law.

(c) Nothing in this section shall prohibit an attorney from:

(1) Informing and advising a client about legal alternatives to litigation or the lawful conduct thereof; or

(2) Taking such action on behalf of a client as may be required by professional responsibilities or applicable law of any State or other jurisdiction.

§ 1612.8 Training.

(a) A recipient may not support or conduct training programs that:

(1) Advocate particular public policies;

(2) Encourage or facilitate political activities, labor or anti-labor activities, boycotts, picketing, strikes or demonstrations, or the development of strategies to influence legislation or rulemaking;

(3) Disseminate information about such policies or activities; or

(4) Train participants to engage in activities prohibited by the Act, other applicable law, or Corporation regulations, guidelines or instructions.

(b) Nothing in this section shall be construed to prohibit training of any attorneys or paralegals, clients, lay advocates, or others involved in the representation of eligible clients necessary for preparing them:

(1) To provide adequate legal assistance to eligible clients; or

(2) To provide advice to any eligible client as to the legal rights of the client.

§ 1612.9 Organizing.

(a) Recipients may not use funds provided by the Corporation or by private entities to initiate the formation, or to act as an organizer, of any association, federation, labor union, coalition, network, alliance, or any similar entity.

(b) This section shall not be construed to apply to:

45 CFR Ch. XVI (10–1–17 Edition)

(1) Informational meetings attended by persons engaged in the delivery of legal services at which information about new developments in law and pending cases or matters are discussed; or

(2) Organizations composed exclusively of eligible clients formed for the purpose of advising a legal services program about the delivery of legal services.

(c) Recipients and their employees may provide legal advice or assistance to eligible clients who desire to plan, establish or operate organizations, such as by preparing articles of incorporation and bylaws.

§ 1612.10 Recordkeeping and accounting for activities funded with non-LSC funds.

(a) No funds made available by the Corporation shall be used to pay for administrative overhead or related costs associated with any activity listed in § 1612.6.

(b) Recipients shall maintain separate records documenting the expenditure of non-LSC funds for legislative and rulemaking activities permitted by § 1612.6.

(c) Recipients shall submit semi-annual reports describing their legislative activities with non-LSC funds conducted pursuant to § 1612.6, together with such supporting documentation as specified by the Corporation.

[62 FR 19404, Apr. 21, 1997; 62 FR 22895, Apr. 28, 1997]

§ 1612.11 Recipient policies and procedures.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part.

PART 1613—RESTRICTIONS ON LEGAL ASSISTANCE WITH RESPECT TO CRIMINAL PROCEEDINGS

Sec.

1613.1 Purpose.

1613.2 Definition.

1613.3 Prohibition.

1613.4 Authorized representation.

1613.5 Criminal representation in Indian tribal courts.

Legal Services Corporation

AUTHORITY: Sec. 234(d), Public Law 111-211, 124 Stat. 2282; 42 U.S.C. 2996f(b)(2); 42 U.S.C. 2996g(e).

SOURCE: 43 FR 32775, July 28, 1978, unless otherwise noted.

§ 1613.1 Purpose.

This part is designed to ensure that Corporation funds will not be used to provide legal assistance with respect to criminal proceedings unless such assistance is authorized by this part.

[79 FR 21150, Apr. 15, 2014]

§ 1613.2 Definition.

Criminal proceeding means the adversary judicial process prosecuted by a public officer and initiated by a formal complaint, information, or indictment charging a person with an offense denominated “criminal” by applicable law and punishable by death, imprisonment, or a jail sentence.

[79 FR 21150, Apr. 15, 2014]

§ 1613.3 Prohibition.

Corporation funds shall not be used to provide legal assistance with respect to a criminal proceeding, unless authorized by this part.

§ 1613.4 Authorized representation.

Legal assistance may be provided with respect to a criminal proceeding.

(a) Pursuant to a court appointment made under a statute or a court rule of equal applicability to all attorneys in the jurisdiction, if authorized by the recipient after a determination that acceptance of the appointment would not impair the recipient’s primary responsibility to provide legal assistance to eligible clients in civil matters.

(b) When professional responsibility requires representation in a criminal proceeding arising out of a transaction with respect to which the client is being, or has been, represented by a recipient.

[43 FR 32775, July 28, 1978, as amended at 79 FR 21150, Apr. 15, 2014]

§ 1613.5 Criminal representation in Indian tribal courts.

(a) Legal assistance may be provided with Corporation funds to a person charged with a criminal offense in an

§ 1614.2

Indian tribal court who is otherwise eligible.

(b) Legal assistance may be provided in a criminal proceeding in an Indian tribal court pursuant to a court appointment only if the appointment is made under a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction, and is authorized by the recipient after a determination that acceptance of the appointment would not impair the recipient’s primary responsibility to provide legal assistance to eligible clients in civil matters.

[79 FR 21151, Apr. 15, 2014]

PART 1614—PRIVATE ATTORNEY INVOLVEMENT

Sec.

- 1614.1 Purpose.
- 1614.2 General policy.
- 1614.3 Definitions.
- 1614.4 Range of activities.
- 1614.5 Compensation of recipient staff and private attorneys; blackout period.
- 1614.6 Procedure.
- 1614.7 Fiscal recordkeeping.
- 1614.8 Prohibition of revolving litigation funds.
- 1614.9 Waivers.
- 1614.10 Failure to comply.

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

SOURCE: 79 FR 61781, Oct. 15, 2014, unless otherwise noted.

§ 1614.1 Purpose.

Private attorney involvement shall be an integral part of a total local program undertaken within the established priorities of that program, and consistent with LSC’s governing statutes and regulations, in a manner that furthers the statutory requirement of providing high quality, economical, and effective client-centered legal assistance and legal information to eligible clients. This part is designed to ensure that recipients of LSC funds involve private attorneys, and encourages recipients to involve law students, law graduates, or other professionals, in the delivery of legal information and legal assistance to eligible clients.

§ 1614.2 General policy.

(a) A recipient of LSC funding shall devote an amount equal to at least

§ 1614.3

45 CFR Ch. XVI (10–1–17 Edition)

twelve and one-half percent (12.5%) of the recipient's annualized Basic Field-General award to the involvement of private attorneys, law students, law graduates, or other professionals in the delivery of legal information and legal assistance to eligible clients. This requirement is hereinafter referred to as the "PAI requirement."

(b) Basic Field-Native American grants, Basic Field-Migrant grants, and non-Basic Field grants are not subject to the PAI requirement. For example, Technology Initiative Grants are not subject to the PAI requirement. However, recipients of Native American or migrant funding shall provide opportunity for involvement in the delivery of legal information and legal assistance by private attorneys, law students, law graduates, or other professionals in a manner that is generally open to broad participation in those activities undertaken with those funds, or shall demonstrate to the satisfaction of the Corporation that such involvement is not feasible.

§ 1614.3 Definitions.

(a) *Attorney* means a person who is authorized to practice law in the jurisdiction in which assistance is rendered. For purposes of this part, *attorney* does not have the meaning stated in 45 CFR 1600.1.

(b) *Incubator project* means a program that provides legal training and support, for a limited period of time, to law students, law graduates, or attorneys who are establishing, or upon graduation and bar admission intend to establish, their own independent law practices.

(c) *Law graduate* means an individual who, within the last two years, has completed the education and/or training requirements necessary for application to the bar in any U.S. state or territory.

(d) *Law student* means an individual who is, or has been, enrolled, full-time or part-time, within the past year, and not expelled from:

(1) A law school that can provide the student with a degree that is a qualification for application to the bar in any U.S. state or territory; or

(2) An apprenticeship program that can provide the student with sufficient

qualifications for application to the bar in any U.S. state or territory.

(e) *Legal assistance* means service on behalf of a client or clients that is specific to the client's or clients' unique circumstances, involves a legal analysis that is tailored to the client's or clients' factual situation, and involves applying legal judgment in interpreting the particular facts and in applying relevant law to the facts presented.

(f) *Legal information* means substantive legal information not tailored to address a person's specific problem and that does not involve applying legal judgment or recommending a specific course of action.

(g) *Other professional* means an individual, not engaged in the practice of law and not employed by the recipient, providing services in furtherance of the recipient's provision of legal information or legal assistance to eligible clients. For example, a paralegal representing a client in a Supplemental Security Income (SSI) case, an accountant providing tax advice to an eligible client, or an attorney not authorized to practice law in the jurisdiction in which the recipient is located would fit within the definition of *other professional*. An individual granted a limited license to practice law by a body authorized by court rule or state law to grant such licenses in the jurisdiction in which the recipient is located would also meet the definition of *other professional*.

(h) *PAI Clinic* means an activity under this part in which private attorneys, law students, law graduates, or other professionals are involved in providing legal information and/or legal assistance to the public at a specified time and location.

(i) *Private attorney* means an attorney. *Private attorney* does not include:

(1) An attorney employed half time or more per calendar year by an LSC recipient or subrecipient; or

(2) An attorney employed less than half time by an LSC recipient or subrecipient acting within the terms of his or her employment by the LSC recipient or subrecipient; or

(3) An attorney acting within the terms of his or her employment by a non-profit organization whose primary

Legal Services Corporation

§ 1614.4

purpose is the delivery of free civil legal services to low-income individuals; or

(4) An attorney 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.

(j) *Screen for eligibility* means to screen individuals for eligibility using the same criteria recipients use to determine an individual's eligibility for cases accepted by the recipient and whether LSC funds or non-LSC funds can be used to provide legal assistance (e.g., income and assets, citizenship, eligible alien status, within priorities, applicability of LSC restrictions).

(k) *Subrecipient* has the meaning stated in 45 CFR 1627.2(b)(1), except that as used in this part, such term shall not include entities that meet the definition of *subrecipient* solely because they receive more than \$25,000 from an LSC recipient for services provided through a fee-for-service arrangement, such as services provided by a private law firm or attorney representing a recipient's clients on a contract or *judicare* basis.

§ 1614.4 Range of activities.

(a) *Direct delivery of legal assistance to recipient clients.* (1) Activities undertaken by the recipient to meet the requirements of this part must include the direct delivery of legal assistance to eligible clients by private attorneys through programs such as organized pro bono plans, reduced fee plans, *judicare* panels, private attorney contracts, or those modified pro bono plans which provide for the payment of nominal fees by eligible clients and/or organized referral systems; except that payment of attorney's fees through "revolving litigation fund" systems, as described in § 1614.8, shall neither be used nor funded under this part nor funded with any LSC support.

(2) In addition to the activities described in paragraph (a)(1) of this section, direct delivery of legal assistance to eligible clients may include representation by a non-attorney in an administrative tribunal that permits non-attorneys to represent individuals before the tribunal.

(3) Systems designed to provide direct legal assistance to eligible clients of the recipient by private attorneys on either a pro bono or reduced fee basis, shall include at a minimum, the following components:

(i) Intake and case acceptance procedures consistent with the recipient's established priorities in meeting the legal needs of eligible clients;

(ii) Case assignments which ensure the referral of cases according to the nature of the legal problems involved and the skills, expertise, and substantive experience of the participating attorney;

(iii) Case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the result desired by the client and the efficient and economical utilization of recipient resources; and

(iv) Access by private attorneys to LSC recipient resources that provide back-up on substantive and procedural issues of the law.

(b) *Support and other activities.* Activities undertaken by recipients to meet the requirements of this part may also include, but are not limited to:

(1) Support provided by private attorneys to the recipient or a subrecipient as part of its delivery of legal assistance or legal information to eligible clients on either a reduced fee or pro bono basis such as the provision of community legal education, training, technical assistance, research, advice and counsel; co-counseling arrangements; or the use of the private attorney's facilities, libraries, computer-assisted legal research systems or other resources;

(2) Support provided by other professionals in their areas of professional expertise to the recipient as part of its delivery of legal information or legal assistance to eligible clients on either a reduced fee or pro bono basis such as the provision of intake support, research, training, technical assistance, or direct assistance to an eligible client of the recipient; and

(3) Support provided by the recipient in furtherance of activities undertaken pursuant to this section including the provision of training, technical assistance, research, advice and counsel or the use of recipient facilities, libraries,

computer assisted legal research systems or other resources.

(4) Support provided to bar associations or courts establishing legal clinics. A recipient may allocate to its PAI requirement costs associated with providing a bar association or court with technical assistance in planning and establishing a legal clinic at which private attorneys will provide legal information and/or legal assistance.

(5) *PAI Clinics*—(i) *Legal information provided in PAI clinics*. A recipient may allocate to its PAI requirement costs associated with providing support to clinics, regardless of whether the clinic screens for eligibility, if the clinic provides only legal information.

(ii) *Legal assistance provided in PAI clinics*. A recipient may provide support to a PAI clinic that provides legal assistance if the PAI clinic screens for eligibility.

(A) A recipient may allocate to its PAI requirement costs associated with its support of such clinics for legal assistance provided to individuals who are eligible to receive LSC-funded legal services.

(B) Where a recipient supports a clinic that provides legal assistance to individuals who are eligible for permissible non-LSC-funded services, the recipient may not allocate to its PAI requirement costs associated with the legal assistance provided to such individuals. For example, a recipient may not allocate to its PAI requirement costs associated with legal assistance provided through a clinic to an individual who exceeds the income and asset tests for LSC eligibility, but is otherwise eligible.

(C) For clinics providing legal information to the public and legal assistance to clients screened for eligibility, a recipient may allocate to its PAI requirement costs associated with its support of both parts of the clinic. If the clinic does not screen for eligibility, the recipient may allocate to the PAI requirement costs associated with the legal information portion of the PAI clinic, but may not allocate to the PAI requirement costs associated with the legal assistance portion of the clinic.

(D) In order to allocate to its PAI requirement costs associated with sup-

port of the legal assistance portion of a clinic, a recipient must maintain records sufficient to document that such clinic has an eligibility screening process and that each individual provided with legal assistance in the portion of the clinic supported by the recipient was properly screened for eligibility under the process.

(6) *Screening and referral systems*. (i) A recipient may participate in a referral system in which the recipient conducts intake screening and refers LSC-eligible applicants to programs that assign applicants to private attorneys on a pro bono or reduced fee basis.

(ii) In order to allocate to its PAI requirement costs associated with participating in such referral systems, a recipient must be able to report the number of eligible persons referred by the recipient to each program and the number of eligible persons who were placed with a private attorney through the program receiving the referral.

(7) *Law student activities*. A recipient may allocate to its PAI requirement costs associated with law student work supporting the recipient's provision of legal information or delivery of legal assistance to eligible clients. Compensation paid by the recipient to law students may not be allocated to the PAI requirement.

(c) *Determination of PAI activities*. The specific methods to be undertaken by a recipient to involve private attorneys, law students, law graduates, or other professionals in the provision of legal information and legal assistance to eligible clients will be determined by the recipient's taking into account the following factors:

(1) The priorities established pursuant to part 1620 of this chapter;

(2) The effective and economic delivery of legal assistance and legal information to eligible clients;

(3) The linguistic and cultural barriers to effective advocacy;

(4) The actual or potential conflicts of interest between specific participating attorneys, law students, law graduates, or other professionals and individual eligible clients; and

(5) The substantive and practical expertise, skills, and willingness to undertake new or unique areas of the law

Legal Services Corporation

§ 1614.6

of participating attorneys and other professionals.

(d) *Unauthorized practice of law.* This part is not intended to permit any activities that would conflict with the rules governing the unauthorized practice of law in the recipient's jurisdiction.

§ 1614.5 Compensation of recipient staff and private attorneys; blackout period.

(a) A recipient may allocate to its PAI requirement costs associated with compensation paid to its employees only for facilitating the involvement of private attorneys, law students, law graduates, or other professionals in activities under this part.

(b) A recipient may not allocate to its PAI requirement costs associated with compensation paid to a private attorney, law graduate, or other professional for services under this part for any hours an individual provides above 800 hours per calendar year.

(c) No costs may be allocated to the PAI requirement for direct payment to any individual who for any portion of the current year or the previous year was employed more than 1,000 hours per calendar year by an LSC recipient or subrecipient, except for employment as a law student; provided, however:

(1) This paragraph (c) shall not be construed to prohibit the allocation of costs to the PAI requirement for payments made to such an individual participating in a pro bono or *judicare* project on the same terms that are available to other attorneys;

(2) This paragraph (c) shall not apply to the allocation of costs to the PAI requirement for payments to attorneys who were employed for less than a year by an LSC recipient or subrecipient as part of an incubator project; and

(3) This paragraph (c) shall not be construed to restrict recipients from allocating to their PAI requirement the payment of funds as a result of work performed by an attorney or other individual who practices in the same business with such former employee.

§ 1614.6 Procedure.

(a) The recipient shall develop a plan and budget to meet the requirements of

this part which shall be incorporated as a part of the refunding application or initial grant application. The budget shall be modified as necessary to fulfill this part. That plan shall take into consideration:

(1) The legal needs of eligible clients in the geographical area served by the recipient and the relative importance of those needs consistent with the priorities established pursuant to section 1007(a)(2)(C) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(C)) and 45 CFR part 1620 adopted pursuant thereto;

(2) The delivery mechanisms potentially available to provide the opportunity for private attorneys, law students, law graduates, or other professionals to meet the established priority legal needs of eligible clients in an economical and effective manner; and

(3) The results of the consultation as required below.

(b) The recipient shall consult with significant segments of the client community, private attorneys, and bar associations, including minority and women's bar associations, in the recipient's service area in the development of its annual plan to provide for the involvement of private attorneys, law students, law graduates, or other professionals in the provision of legal information and legal assistance to eligible clients and shall document that each year its proposed annual plan has been presented to all local bar associations within the recipient's service area and shall summarize their response.

(c) In the case of recipients whose service areas are adjacent, coterminous, or overlapping, the recipients may enter into joint efforts to involve private attorneys, law students, law graduates, or other professionals in the delivery of legal information and legal assistance to eligible clients, subject to the prior approval of LSC. In order to be approved, the joint venture plan must meet the following conditions:

(1) The recipients involved in the joint venture must plan to expend at least twelve and one-half percent (12.5%) of the aggregate of their basic field awards on PAI. In the case of recipients with adjacent service areas, twelve and one-half percent (12.5%) of

§ 1614.7

each recipient's grant shall be expended to PAI; provided, however, that such expenditure is subject to waiver under this section;

(2) Each recipient in the joint venture must be a bona fide participant in the activities undertaken by the joint venture; and

(3) The joint PAI venture must provide an opportunity for involving private attorneys, law students, law graduates, or other professionals throughout the entire joint service area(s).

§ 1614.7 Fiscal recordkeeping.

The recipient shall demonstrate compliance with this part by utilizing financial systems and procedures and maintaining supporting documentation to identify and account separately for costs related to the PAI effort. Such systems and records shall meet the requirements of the Corporation's Audit Guide for Recipients and Auditors and the Accounting Guide for LSC Recipients and shall have the following characteristics:

(a) They shall accurately identify and account for:

(1) The recipient's administrative, overhead, staff, and support costs related to PAI activities. Non-personnel costs shall be allocated on the basis of reasonable operating data. All methods of allocating common costs shall be clearly documented. If 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. The timekeeping requirement does not apply to such employees as receptionists, secretaries, intake personnel or bookkeepers; however, personnel cost allocations for non-attorney or non-paralegal staff should be based on other reasonable operating data which is clearly documented;

(2) Payments to private attorneys, law graduates, or other professionals for support or direct client services rendered. The recipient shall maintain contracts on file that set forth payment systems, hourly rates, and maximum allowable fees. Bills and/or invoices from private attorneys, law graduates, or other professionals shall be submitted before payments are

45 CFR Ch. XVI (10-1-17 Edition)

made. Encumbrances shall not be included in calculating whether a recipient has met the requirement of this part;

(3) Contractual payments or subgrants to individuals or organizations that undertake administrative, support, and/or direct services to eligible clients on behalf of the recipient consistent with the provisions of this part. Contracts or subgrants concerning transfer of LSC funds for PAI activities shall require that such funds be accounted for by the recipient in accordance with LSC guidelines, including the requirements of the Audit Guide for Recipients and Auditors and the Accounting Guide for LSC Recipients and 45 CFR parts 1610, 1627 and 1630;

(4) Other such actual costs as may be incurred by the recipient in this regard.

(b) Support and expenses relating to the PAI effort must be reported separately in the recipient's year-end audit. This shall be done by establishing a separate fund or providing a separate schedule in the financial statement to account for the entire PAI allocation. Recipients are not required to establish separate bank accounts to segregate funds allocated to PAI. Auditors are required to perform sufficient audit tests to enable them to render an opinion on the recipient's compliance with the requirements of this part.

(c) Attorneys, law students, law graduates, or other professionals may be reimbursed for actual costs and expenses.

(d) Fees paid to individuals for providing services under this part may not exceed 50% of the local prevailing market rate for that type of service.

§ 1614.8 Prohibition of revolving litigation funds.

(a) A revolving litigation fund system is a system under which a recipient systematically encourages the acceptance of fee-generating cases as defined in §1609.2 of this chapter by advancing funds to private attorneys, law students, law graduates, or other professionals to enable them to pay costs, expenses, or attorneys' fees for representing clients.

(b) No funds received from the Corporation shall be used to establish or

Legal Services Corporation

§ 1614.9

maintain revolving litigation fund systems.

(c) The prohibition in paragraph (b) of this section does not prevent recipients from reimbursing or paying private attorneys, law students, law graduates, or other professionals for costs and expenses, provided:

(1) The private attorney, law student, law graduate, or other professional is representing an eligible client in a matter in which representation of the eligible client by the recipient would be allowed under LSC's governing statutes and regulations; and

(2) The private attorney, law student, law graduate, or other professional has expended such funds in accordance with a schedule previously approved by the recipient's governing body or, prior to initiating action in the matter, has requested the recipient to advance the funds.

(d) Nothing in this section shall prevent a recipient from recovering from a private attorney, law student, law graduate, or other professional the amount advanced for any costs, expenses, or fees from an award to the attorney for representing an eligible client.

§ 1614.9 Waivers.

(a) While it is the expectation and experience of the Corporation that most basic field programs can effectively expend their PAI requirement, there are some circumstances, temporary or permanent, under which the goal of economical and effective use of Corporation funds will be furthered by a partial, or in exceptional circumstances, a complete waiver of the PAI requirement.

(b) A complete waiver shall be granted by LSC when the recipient shows to the satisfaction of LSC that:

(1) Because of the unavailability of qualified private attorneys, law students, law graduates, or other professionals an attempt to carry out a PAI program would be futile; or

(2) All qualified private attorneys, law students, law graduates, or other professionals in the program's service area either refuse to participate or have conflicts generated by their practice which render their participation inappropriate.

(c) A partial waiver shall be granted by LSC when the recipient shows to the satisfaction of LSC that:

(1) The population of qualified private attorneys, law students, law graduates, or other professionals available to participate in the program is too small to use the full PAI allocation economically and effectively; or

(2) Despite the recipient's best efforts too few qualified private attorneys, law students, law graduates, or other professionals are willing to participate in the program to use the full PAI allocation economically and effectively; or

(3) Despite a recipient's best efforts—including, but not limited to, communicating its problems expending the required amount to LSC and requesting and availing itself of assistance and/or advice from LSC regarding the problem—expenditures already made during a program year are insufficient to meet the PAI requirement, and there is insufficient time to make economical and efficient expenditures during the remainder of a program year, but in this instance, unless the shortfall resulted from unforeseen and unusual circumstances, the recipient shall accompany the waiver request with a plan to avoid such a shortfall in the future; or

(4) The recipient uses a fee-for-service program whose current encumbrances and projected expenditures for the current fiscal year would meet the requirement, but its actual current expenditures do not meet the requirement, and could not be increased to do so economically and effectively in the remainder of the program year, or could not be increased to do so in a fiscally responsible manner in view of outstanding encumbrances; or

(5) The recipient uses a fee-for-service program and its PAI expenditures in the prior year exceeded the twelve and one-half percent (12.5%) requirement but, because of variances in the timing of work performed by the private attorneys and the consequent billing for that work, its PAI expenditures for the current year fail to meet the twelve and one-half percent (12.5%) requirement; or

(6) If, in the reasonable judgment of the recipient's governing body, it would not be economical and efficient

§ 1614.10

45 CFR Ch. XVI (10–1–17 Edition)

for the recipient to expend its full twelve and one-half percent (12.5%) of Corporation funds on PAI activities, provided that the recipient has handled and expects to continue to handle at least twelve and one-half percent (12.5%) of cases brought on behalf of eligible clients through its PAI program(s).

(d)(1) A waiver of special accounting and bookkeeping requirements of this part may be granted by LSC, if the recipient shows to the satisfaction of LSC that such waiver will advance the purpose of this part as expressed in §§1614.1 and 1614.2.

(2) As provided in 45 CFR 1627.3(c) with respect to subgrants, alternatives to Corporation audit requirements or to the accounting requirements of this Part may be approved for subgrants by LSC; such alternatives for PAI subgrants shall be approved liberally where necessary to foster increased PAI participation.

(e) Waivers of the PAI expenditure requirement may be full or partial, that is, the Corporation may waive all or some of the required expenditure for a fiscal year.

(1) Applications for waivers of any requirement under this Part may be for the current or next fiscal year. All such applications must be in writing. Applications for waivers for the current fiscal year must be received by the Corporation during the current fiscal year.

(2) At the expiration of a waiver a recipient may seek a similar or identical waiver.

(f) All waiver requests shall be addressed to LSC. The Corporation shall make a written response to each such request postmarked not later than thirty (30) days after its receipt. If the request is denied, the Corporation will provide the recipient with an explanation and statement of the grounds for denial. If the waiver is to be denied because the information submitted is insufficient, the Corporation will inform the recipient as soon as possible, both orally and in writing, about what additional information is needed. Should the Corporation fail to so respond, the request shall be deemed to be granted.

§ 1614.10 Failure to comply.

(a)(1) If a recipient fails to comply with the expenditure required by this part *and* that recipient fails without good cause to seek a waiver during the term of the grant or contract, the Corporation shall withhold from the recipient's grant payments an amount equal to the difference between the amount expended on PAI and twelve and one-half percent (12.5%) of the recipient's basic field award.

(2) If the Corporation determines that a recipient failed without good cause to seek a waiver, the Corporation shall give the recipient written notice of that determination. The written notice shall state the determination, the amount to be withheld, and the process by which the recipient may appeal the determination.

(3) The appeal process will follow the procedures for the appeal of disallowed costs set forth at 45 CFR 1630.7(c)–(g), except that:

(i) The subject matter of the appeal shall be limited to the Corporation's determination that the recipient failed without good cause to seek a waiver; and

(ii) Withholding of funds shall be the method for the Corporation to recover the amount to be withheld.

(b) If a recipient fails with good cause to seek a waiver, or applies for but does not receive a waiver, or receives a waiver of part of the PAI requirement and does not expend the amount required to be expended, the PAI expenditure requirement for the ensuing year shall be increased for that recipient by an amount equal to the difference between the amount actually expended and the amount required to be expended.

(c)(1) Any funds withheld by the Corporation pursuant to this section shall be made available by the Corporation for use in providing legal services through PAI programs. When such funds are available for competition, LSC shall publish notice of the requirements concerning time, format, and content of the application and the procedures for submitting an application for such funds. Disbursement of these funds for PAI activities shall be made through a competitive solicitation and awarded on the basis of efficiency,

Legal Services Corporation

§ 1616.3

quality, creativity, and demonstrated commitment to PAI service delivery to low-income people. Competition for these funds may be held in the recipient's service area, or if the recipient from which funds are withheld is the only LSC recipient applying for the funds in the competitive solicitation, in additional service areas.

(2) Recipients shall expend funds awarded through the competitive process in paragraph (c)(1) of this section in addition to twelve and one-half percent (12.5%) of their Basic Field-General awards.

(d) The withholding of funds under this section shall not be construed as any action under 45 CFR parts 1606, 1618, 1623, or 1630.

PART 1615—RESTRICTIONS ON ACTIONS COLLATERALLY ATTACKING CRIMINAL CONVICTIONS

Sec.

1615.1 Purpose.

1615.2 Prohibition.

1615.3 Application of this part.

AUTHORITY: Sec. 1007(b)(1); (42 U.S.C. 2996f(b)(1)).

SOURCE: 41 FR 38508, Sept. 10, 1976, unless otherwise noted.

§ 1615.1 Purpose.

This part prohibits the provision of legal assistance in an action in the nature of habeas corpus seeking to collaterally attack a criminal conviction.

§ 1615.2 Prohibition.

Except as authorized by this part, no Corporation funds shall be used to provide legal assistance in an action in the nature of habeas corpus collaterally attacking a criminal conviction if the action

(a) Is brought against an officer of a court, a law enforcement official, or a custodian of an institution for persons convicted of crimes; and

(b) Alleges that the conviction is invalid because of any alleged acts or failures to act by an officer of a court or a law enforcement official.

§ 1615.3 Application of this part.

This part does not prohibit legal assistance—

(a) To challenge a conviction resulting from a criminal proceeding in which the defendant received representation from a recipient pursuant to Corporation regulations; or

(b) Pursuant to a court appointment made under a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction, if authorized by the recipient after a determination that it is consistent with the primary responsibility of the recipient to provide legal assistance to eligible clients in civil matters.

PART 1616—ATTORNEY HIRING

Sec.

1616.1 Purpose.

1616.2 Definition.

1616.3 Qualifications.

1616.4 Recommendations.

1616.5 Preference to local applicants.

1616.6 Equal employment opportunity.

1616.7 Language ability.

AUTHORITY: Secs. 1007(a)(8); 1006(b)(6); 1006(b)(4); (42 U.S.C. 2996f(a)(8); 2996e(b)(6); 2996e(b)(4)).

SOURCE: 41 FR 38509, Sept. 10, 1976, unless otherwise noted.

§ 1616.1 Purpose.

This part is designed to promote a mutually beneficial relationship between a recipient and the local Bar and community, and to insure that a recipient will choose highly qualified attorneys for its staff.

§ 1616.2 Definition.

Community, as used in this part, means the geographical area most closely corresponding to the area served by a recipient.

§ 1616.3 Qualifications.

A recipient shall establish qualifications for individual positions for attorneys providing legal assistance under the Act, that may include, among other relevant factors:

(a) Academic training and performance;

(b) The nature and extent of prior legal experience;

(c) Knowledge and understanding of the legal problems and needs of the poor;

§ 1616.4

(d) Prior working experience in the client community, or in other programs to aid the poor;

(e) Ability to communicate with persons in the client community, including, in areas where significant numbers of eligible clients speak a language other than English as their principal language, ability to speak that language; and

(f) Cultural similarity with the client community.

§ 1616.4 Recommendations.

(a) Before filling an attorney position, a recipient shall notify the organized Bar in the community of the existence of a vacancy, and of the qualifications established for it, and seek recommendations for attorneys who meet the qualifications established for the position.

(b) A recipient shall similarly notify and seek recommendations from other organizations, deemed appropriate by the recipient, that have knowledge of the legal needs of persons in the community unable to afford legal assistance.

§ 1616.5 Preference to local applicants.

When equally qualified applicants are under consideration for an attorney position, a recipient shall give preference to an applicant residing in the community to be served.

§ 1616.6 Equal employment opportunity.

A recipient shall adopt employment qualifications, procedures, and policies that meet the requirements of applicable laws prohibiting discrimination in employment, and shall take affirmative action to insure equal employment opportunity.

§ 1616.7 Language ability.

In areas where a significant number of clients speak a language other than English as their principal language, a recipient shall adopt employment policies that insure that legal assistance will be provided in the language spoken by such clients.

45 CFR Ch. XVI (10–1–17 Edition)

PART 1617—CLASS ACTIONS

Sec.

1617.1 Purpose.

1617.2 Definitions.

1617.3 Prohibition.

1617.4 Recipient policies and procedures.

AUTHORITY: 29 U.S.C. 2996e(d)(5); 110 Stat. 3009 (1996); 110 Stat. 1321 (1996).

SOURCE: 61 FR 63755, Dec. 2, 1996, unless otherwise noted.

§ 1617.1 Purpose.

This rule is intended to ensure that LSC recipients do not initiate or participate in class actions.

§ 1617.2 Definitions.

(a) *Class action* means a lawsuit filed as, or otherwise declared by the court having jurisdiction over the case to be, a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure or the comparable State statute or rule of civil procedure applicable in the court in which the action is filed.

(b)(1) *Initiating or participating in any class action* means any involvement at any stage of a class action prior to or after an order granting relief. “Involvement” includes acting as amicus curiae, co-counsel or otherwise providing representation relating to a class action.

(2) *Initiating or participating in any class action* does not include representation of an individual client seeking to withdraw from or opt out of a class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate or advise others about the terms of an order granting relief.

§ 1617.3 Prohibition.

Recipients are prohibited from initiating or participating in any class action.

§ 1617.4 Recipient policies and procedures.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part.

PART 1618—ENFORCEMENT PROCEDURES

- Sec.
- 1618.1 Purpose.
- 1618.2 Definition.
- 1618.3 Complaints.
- 1618.4 Duties of recipients.
- 1618.5 Duties of the Corporation.

AUTHORITY: 42 U.S.C. 2996e(b)(1), 2996e(b)(2), 2996e(b)(5), 2996f(a)(3), 2996f(d), and 2996g(e).

SOURCE: 78 FR 10097, Feb. 13, 2013, unless otherwise noted.

§ 1618.1 Purpose.

In order to ensure uniform and consistent interpretation and application of 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 and conditions of the recipient's grant or contract with the Corporation, and to prevent a question of whether these requirements have been violated from becoming an ancillary issue in any case undertaken by a recipient, this part establishes a systematic procedure for enforcing compliance with them.

§ 1618.2 Definitions.

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.

Violation means a violation by the recipient of the LSC requirements.

§ 1618.3 Complaints.

A complaint of a violation by a recipient or an employee of a recipient may be made to the recipient, the State Advisory Council, or the Corporation.

§ 1618.4 Duties of recipients.

(a) A recipient shall:

(1) Advise its employees of their responsibilities under the LSC requirements;

(2) Establish procedures, consistent with the notice and hearing requirements of section 1011 of the LSC Act, for determining whether an employee

has committed a violation and whether the violation merits a sanction based on consideration of the totality of the circumstances; and

(3) Establish a policy for determining the appropriate sanction to be imposed for a violation, including:

(i) Administrative reprimand if a violation is found to be minor and unintentional, or otherwise affected by mitigating circumstances;

(ii) Suspension and termination of employment; and

(iii) Other sanctions appropriate for enforcement of the LSC requirements.

(b) Before suspending or terminating the employment of any person for a violation, a recipient shall consult the Corporation to ensure that its interpretation of these requirements is consistent with Corporation policy.

(c) This section provides procedural requirements between the Corporation and recipients. It does not create rights for recipient employees.

§ 1618.5 Duties of the Corporation.

(a) Whenever the Corporation learns that there is reason to believe that a recipient or a recipient's employee may have committed a violation, the Corporation shall investigate the matter promptly and attempt to resolve it through informal consultation with the recipient. Such actions may be limited to determining if the recipient is sufficiently investigating and resolving the matter itself.

(b) Whenever there is substantial reason to believe that a recipient has persistently or intentionally violated the LSC requirements, or, after notice, 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, the Corporation may proceed to suspend or terminate financial support of the recipient, or impose a limited reduction in funding, pursuant to the procedures set forth in parts 1623 and 1606, or may take other action to enforce compliance with the LSC requirements.

(c) Whenever the Corporation determines that a recipient has committed a violation, that corrective actions by the recipient are required to remedy the violation and/or prevent recurrence

Pt. 1619

45 CFR Ch. XVI (10–1–17 Edition)

of the violation, and that imposition of special grant conditions are needed prior to the next grant renewal or competition for the service area, the Corporation may immediately impose Special Grant Conditions on the recipient to require completion of those corrective actions.

- (c) Any material used by a recipient in providing representation to clients;
- (d) Any matter that is related solely to the internal personnel rules and practices of the recipient; or
- (e) Personnel, medical, or similar files.

PART 1619—DISCLOSURE OF INFORMATION

PART 1620—PRIORITIES IN USE OF RESOURCES

- Sec.
- 1619.1 Purpose.
- 1619.2 Policy.
- 1619.3 Referral to the Corporation.
- 1619.4 Exemptions.

- Sec.
- 1620.1 Purpose.
- 1620.2 Definitions.
- 1620.3 Establishing priorities.
- 1620.4 Establishing policies and procedures for emergencies.
- 1620.5 Annual review.
- 1620.6 Signed written agreement.
- 1620.7 Reporting.

AUTHORITY: Sec. 1006(b)(1), (42 U.S.C. 2996e(b)(1)); sec. 1008(e), (42 U.S.C. 2996g(e)).

AUTHORITY: 42 U.S.C. 2996f(a)(2); Pub. L. 104-208, 110 Stat. 3009; Pub. L. 104-134, 110 Stat. 1321.

SOURCE: 42 FR 4848, Jan. 26, 1977, unless otherwise noted.

SOURCE: 62 FR 19408, Apr. 21, 1997, unless otherwise noted.

§ 1619.1 Purpose.

§ 1620.1 Purpose.

This part is designed to insure disclosure of information that is a valid subject of public interest in the activities of a recipient.

This part is designed to provide guidance to recipients for setting priorities and to ensure that a recipient's governing body adopts written priorities for the types of cases and matters, including emergencies, to which the recipient's staff will limit its commitment of time and resources.

§ 1619.2 Policy.

§ 1620.2 Definitions.

A recipient shall adopt a procedure for affording the public appropriate access to the Act, Corporation rules, regulations and guidelines, the recipient's written policies, procedures, and guidelines, the names and addresses of the members of its governing body, and other materials that the recipient determines should be disclosed. The procedure adopted shall be subject to approval by the Corporation.

(a) A *case* is a form of program service in which an attorney or paralegal of a recipient provides legal services to one or more specific clients, including, without limitation, providing representation in litigation, administrative proceedings, and negotiations, and such actions as advice, providing brief services and transactional assistance, and assistance with individual Private Attorney Involvement (PAI) cases.

§ 1619.3 Referral to the Corporation.

(b) A *matter* is an action which contributes to the overall delivery of program services but does not involve direct legal advice to or legal representation of one or more specific clients. Examples of matters include both direct services, such as community education presentations, operating pro se clinics, providing information about the availability of legal assistance, and developing written materials explaining

If a person requests information, not required to be disclosed by this part, that the Corporation may be required to disclose pursuant to part 1602 of this chapter implementing the Freedom of Information Act, the recipient shall either provide the information or inform the person seeking it how to request it from the Corporation.

§ 1619.4 Exemptions.

Nothing in this part shall require disclosure of:

- (a) Any information furnished to a recipient by a client;
- (b) The work product of an attorney or paralegal;

Legal Services Corporation

§ 1620.5

legal rights and responsibilities; and indirect services, such as training, continuing legal education, general supervision of program services, preparing and disseminating desk manuals, PAI recruitment, intake when no case is undertaken, and tracking substantive law developments.

§ 1620.3 Establishing priorities.

(a) The governing body of a recipient must adopt procedures for establishing priorities for the use of all of its Corporation and non-Corporation resources and must adopt a written statement of priorities, pursuant to those procedures, that determines the cases and matters which may be undertaken by the recipient.

(b) The procedures adopted must include an effective appraisal of the needs of eligible clients in the geographic area served by the recipient, and their relative importance, based on information received from potential or current eligible clients that is solicited in a manner reasonably calculated to obtain the views of all significant segments of the client population. The appraisal must also include and be based on information from the recipient's employees, governing body members, the private bar, and other interested persons. The appraisal should address the need for outreach, training of the recipient's employees, and support services.

(c) The following factors shall be among those considered by the recipient in establishing priorities:

(1) The suggested priorities promulgated by the Legal Services Corporation;

(2) The appraisal described in paragraph (b) of this section;

(3) The population of eligible clients in the geographic areas served by the recipient, including all significant segments of that population with special legal problems or special difficulties of access to legal services;

(4) The resources of the recipient;

(5) The availability of another source of free or low-cost legal assistance in a particular category of cases or matters;

(6) The availability of other sources of training, support, and outreach services;

(7) The relative importance of particular legal problems to the individual clients of the recipient;

(8) The susceptibility of particular problems to solution through legal processes;

(9) Whether legal efforts by the recipient will complement other efforts to solve particular problems in the area served;

(10) Whether legal efforts will result in efficient and economic delivery of legal services; and

(11) Whether there is a need to establish different priorities in different parts of the recipient's service area.

§ 1620.4 Establishing policies and procedures for emergencies.

The governing body of a recipient shall adopt written policies and procedures to guide the recipient in undertaking emergency cases or matters not within the recipient's established priorities. Emergencies include those non-priority cases or matters that require immediate legal action to:

(a) Secure or preserve the necessities of life,

(b) Protect against or eliminate a significant risk to the health or safety of the client or immediate family members, or

(c) Address other significant legal issues that arise because of new and unforeseen circumstances.

§ 1620.5 Annual review.

(a) Priorities shall be set periodically and shall be reviewed by the governing body of the recipient annually or more frequently if the recipient has accepted a significant number of emergency cases outside of its priorities.

(b) The following factors should be among those considered in determining whether the recipient's priorities should be changed:

(1) The extent to which the objectives of the recipient's priorities have been accomplished;

(2) Changes in the resources of the recipient;

(3) Changes in the size, distribution, or needs of the eligible client population; and

(4) The volume of non-priority emergency cases or matters in a particular

§ 1620.6

legal area since priorities were last reviewed.

§ 1620.6 Signed written agreement.

All staff who handle cases or matters, or are authorized to make decisions about case acceptance, must sign a simple agreement developed by the recipient which indicates that the signatory:

- (a) Has read and is familiar with the priorities of the recipient;
- (b) Has read and is familiar with the definition of an emergency situation and the procedures for dealing with an emergency that have been adopted by the recipient; and
- (c) Will not undertake any case or matter for the recipient that is not a priority or an emergency.

§ 1620.7 Reporting.

(a) The recipient shall report to the recipient's governing body on a quarterly basis information on all emergency cases or matters undertaken that were not within the recipient's priorities, and shall include a rationale for undertaking each such case or matter.

(b) The recipient shall report annually to the Corporation, on a form provided by the Corporation, information on all emergency cases or matters undertaken that were not within the recipient's priorities.

(c) The recipient shall submit to the Corporation and make available to the public an annual report summarizing the review of priorities; the date of the most recent appraisal; the timetable for the future appraisal of needs and evaluation of priorities; mechanisms which will be utilized to ensure effective client participation in priority-setting; and any changes in priorities.

PART 1621—CLIENT GRIEVANCE PROCEDURES

Sec.

1621.1 Purpose.

1621.2 Grievance committee.

1621.3 Complaints by applicants about denial legal assistance.

1621.4 Complaints by clients about manner or quality of legal assistance.

AUTHORITY: Sec. 1006(b)(1), 42 U.S.C. 2996e(b)(1); sec. 1006(b)(3), 42 U.S.C.

45 CFR Ch. XVI (10–1–17 Edition)

2996e(b)(3); sec. 1007(a)(1), 42 U.S.C. 2996f(a)(1).

SOURCE: 72 FR 3954, Jan. 29, 2007, unless otherwise noted.

§ 1621.1 Purpose.

This Part is intended to help ensure that recipients provide the highest quality legal assistance to clients as required by the LSC Act and are accountable to clients and applicants for legal assistance by requiring recipients to establish grievance procedures to process complaints by applicants about the denial of legal assistance and clients about the manner or quality of legal assistance provided. This Part is further intended to help ensure that the grievance procedures adopted by recipients will result, to the extent possible, in the provision of an effective remedy in the resolution of complaints.

§ 1621.2 Grievance Committee.

The governing body of a recipient shall establish a grievance committee or committees, composed of lawyer and client members of the governing body, in approximately the same proportion in which they are on the governing body.

§ 1621.3 Complaints by applicants about denial of legal assistance.

A recipient shall establish a simple procedure for review of complaints by applicants about decisions to deny legal assistance to the applicant. The procedure shall, at a minimum, provide: A practical method for the recipient to provide applicants with adequate notice of the complaint procedures and how to make a complaint; and an opportunity for applicants to confer with the Executive Director or the Executive Director's designee, and, to the extent practical, with a representative of the governing body. The procedure shall be designed to foster effective communications between the recipient and complaining applicants.

§ 1621.4 Complaints by clients about manner or quality of legal assistance.

(a) A recipient shall establish procedures for the review of complaints by clients about the manner or quality of

Legal Services Corporation

§ 1622.2

legal assistance that has been rendered by the recipient to the client.

(b) The procedures shall be designed to foster effective communications between the recipient and the complaining client and, at a minimum, provide:

(1) A method for providing a client, at the time the person is accepted as a client or as soon thereafter as is practical, with adequate notice of the complaint procedures and how to make a complaint;

(2) For prompt consideration of each complaint by the Executive Director or the Executive Director's designee,

(3) An opportunity for the complainant, if the Executive Director or the Executive Director's designee is unable to resolve the matter, to submit an oral or written statement to a grievance committee established by the governing body as required by §1621.2 of this Part. The procedures shall also: provide that the opportunity to submit an oral statement may be accomplished in person, by teleconference, or through some other reasonable alternative; permit a complainant to be accompanied by another person who may speak on that complainant's behalf; and provide that, upon request of the complainant, the recipient shall transcribe a brief written statement, dictated by the complainant for inclusion in the recipient's complaint file.

(c) Complaints received from clients about the manner or quality of legal assistance that has been rendered by a private attorney pursuant to the recipient's private attorney involvement program under 45 CFR Part 1614 shall be processed in a manner consistent with its responsibilities under 45 CFR §1614.3(d)(3) and with applicable state or local rules of professional responsibility.

(d) A file containing every complaint and a statement of its disposition shall be preserved for examination by LSC. The file shall include any written statement submitted by the complainant or transcribed by the recipient from a complainant's oral statement.

PART 1622—PUBLIC ACCESS TO MEETINGS UNDER THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

1622.1 Purpose and scope.

1622.2 Definitions.

1622.3 Open meetings.

1622.4 Public announcement of meetings.

1622.5 Grounds on which meetings may be closed or information withheld.

1622.6 Procedures for closing discussion or withholding information.

1622.7 Certification by the General Counsel.

1622.8 Records of closed meetings.

1622.9 Emergency procedures.

1622.10 Report to Congress.

AUTHORITY: Sec. 1004(g), Pub. L. 95-222, 91 Stat. 1619, (42 U.S.C. 2996c(g)).

SOURCE: 49 FR 30940, Aug. 2, 1984, unless otherwise noted.

§ 1622.1 Purpose and scope.

This part is designed to provide the public with full access to the deliberations and decisions of the Board of Directors of the Legal Services Corporation, committees of the Board, and state Advisory Councils, while maintaining the ability of those bodies to carry out their responsibilities and protecting the rights of individuals.

§ 1622.2 Definitions.

Board means the Board of Directors of the Legal Services Corporation.

Committee means any formally designated subdivision of the Board established pursuant to §1601.27 of the By-Laws of the Corporation.

Council means a state Advisory Council appointed by a state Governor or the Board pursuant to section 1004(f) of the Legal Services Corporation Act of 1974, 42 U.S.C. 2996c(f).

Director means a voting member of the Board or a Council. Reference to actions by or communications to a "Director" means action by or communications to Board members with respect to proceedings of the Board, committee members with respect to proceedings of their committees, and council members with respect to proceedings of their councils.

General Counsel means the General Counsel of the Corporation, or, in the absence of the General Counsel of the Corporation, a person designated by the President to fulfill the duties of the

§ 1622.3

General Counsel or a member designated by a council to act as its chief legal officer.

Meetings means the deliberations of a quorum of the Board, or of any committee, or of a council, when such deliberations determine or result in the joint conduct or disposition of Corporation business, but does not include deliberations about a decision to open or close a meeting, a decision to withhold information about a meeting, or the time, place, or subject of a meeting.

Public observation means the right of any member of the public to attend and observe a meeting within the limits of reasonable accommodations made available for such purposes by the Corporation, but does not include any right to participate unless expressly invited by the Chairman of the Board of Directors, and does not include any right to disrupt or interfere with the disposition of Corporation business.

Publicly available for the purposes of § 1622.6(e) means to be procurable either from the Secretary of the Corporation at the site of the meeting or from the Office of Government Relations at Corporation Headquarters upon reasonable request made during business hours.

Quorum means the number of Board or committee members authorized to conduct Corporation business pursuant to the Corporation's By-laws, or the number of council members authorized to conduct its business.

Secretary means the Secretary of the Corporation, or, in the absence of the Secretary of the Corporation, a person appointed by the Chairman of the meeting to fulfill the duties of the Secretary, or a member designated by a council to act as its secretary.

§ 1622.3 Open meetings.

Every meeting of the Board, a committee or a council shall be open in its entirety to public observation except as otherwise provided in § 1622.5.

§ 1622.4 Public announcement of meetings.

(a) Public announcement shall be posted of every meeting. The announcement shall include: (1) The time, place, and subject matter to be discussed;

45 CFR Ch. XVI (10-1-17 Edition)

(2) Whether the meeting or a portion thereof is to be open or closed to public observation; and

(3) The name and telephone number of the official designated by the Board, committee, or council to respond to requests for information about the meeting.

(b) The announcement shall be posted at least seven calendar days before the meeting, unless a majority of the Directors determines by a recorded vote that Corporation business requires a meeting on fewer than seven days notice. In the event that such a determination is made, public announcement shall be posted at the earliest practicable time.

(c) Each public announcement shall be posted at the offices of the Corporation in an area to which the public has access, and promptly submitted to the FEDERAL REGISTER for publication. Reasonable effort shall be made to communicate the announcement of a Board or committee meeting to the chairman of each council and the governing body and the program director of each recipient of funds from the Corporation, and of a council meeting to the governing body and program director of each recipient within the same State.

(d) An amended announcement shall be issued of any change in the information provided by a public announcement. Such changes shall be made in the following manner:

(1) The time or place of a meeting may be changed without a recorded vote.

(2) The subject matter of a meeting, or a decision to open or close a meeting or a portion thereof, may be changed by recorded vote of a majority of the Directors that Corporation business so requires and that no earlier announcement of the change was possible.

An amended public announcement shall be made at the earliest practicable time and in the manner specified by § 1622.4 (a) and (c). In the event that changes are made pursuant to § 1622.4(d)(2), the amended public announcement shall also include the vote of each Director upon such change.

[49 FR 30940, Aug. 2, 1984, as amended at 50 FR 30714, July 29, 1985]

Legal Services Corporation

§ 1622.6

§ 1622.5 Grounds on which meetings may be closed or information withheld.

Except when the Board or council finds that the public interest requires otherwise, a meeting or a portion thereof may be closed to public observation, and information pertaining to such meeting or portion thereof may be withheld, if the Board or council determines that such meeting or portion thereof, or disclosure of such information, will more probably than not:

(a) Relate solely to the internal personnel rules and practices of the Corporation;

(b) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552): Provided, That such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(2) Establishes particular types of matters to be withheld;

(c) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(d) Involve accusing any person of a crime or formally censuring any person;

(e) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) Disclose investigatory records compiled for the purpose of enforcing the Act or any other law, or information which if written would be contained in such records, but only to the extent that production of such records or information would: (1) Interfere with enforcement proceedings,

(2) Deprive a person of a right to a fair trial or an impartial adjudication,

(3) Constitute an unwarranted invasion of personal privacy,

(4) Disclose the identity of a confidential source,

(5) Disclose investigative techniques and procedures, or

(6) Endanger the life or physical safety of law enforcement personnel;

(g) Disclose information the premature disclosure of which would be likely to frustrate significantly implementation of a proposed Corporation

action, except that this paragraph shall not apply in any instance where the Corporation has already disclosed to the public the content or nature of its proposed action, or where the Corporation is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(h) Specifically concern the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Corporation of a particular case involving a determination on the record after opportunity for a hearing.

§ 1622.6 Procedures for closing discussion or withholding information.

(a) No meeting or portion of a meeting shall be closed to public observation, and no information about a meeting shall be withheld from the public, except by a recorded vote of a majority of the Directors with respect to each meeting or portion thereof proposed to be closed to the public, or with respect to any information that is proposed to be withheld.

(b) A separate vote of the Directors shall be taken with respect to each meeting or portion thereof proposed to be closed to the public, or with respect to any information which is proposed to be withheld; except, a single vote may be taken with respect to a series of meetings or portions thereof which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series.

(c) Whenever any person's interest may be directly affected by a matter to be discussed at a meeting, the person may request that a portion of the meeting be closed to public observation by filing a written statement with the Secretary. The statement shall set forth the person's interest, the manner in which that interest will be affected at the meeting, and the grounds upon which closure is claimed to be proper under §1622.5. The Secretary shall

§ 1622.7

promptly communicate the request to the Directors, and a recorded vote as required by paragraph (a) of this section shall be taken if any Director so requests.

(d) With respect to each vote taken pursuant to paragraphs (a) through (c) of this section, the vote of each Director participating in the vote shall be recorded and no proxies shall be allowed.

(e) With respect to each vote taken pursuant to paragraphs (a) through (c) of this section, the Corporation shall, within one business day, make publicly available:

(1) A written record of the vote of each Director on the question;

(2) A full written explanation of the action closing the meeting, portion(s) thereof, or series of meetings, with reference to the specific exemptions listed in § 1622.5, including a statement of reasons as to why the specific discussion comes within the cited exemption and a list of all persons expected to attend the meeting(s) or portion(s) thereof and their affiliation.

[49 FR 30940, Aug. 2, 1984, as amended at 50 FR 30714, July 29, 1985]

§ 1622.7 Certification by the General Counsel.

Before a meeting or portion thereof is closed, the General Counsel shall publicly certify that, in his opinion, the meeting may be so closed to the public and shall state each relevant exemption. A copy of the certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons present, shall be retained by the Corporation.

§ 1622.8 Records of closed meetings.

(a) The Secretary shall make a complete transcript or electronic recording adequate to record fully the proceedings of each meeting or portion thereof closed to the public, except that in the case of meeting or any portion thereof closed to the public pursuant to paragraph (h) of § 1622.5, a transcript, a recording, or a set of minutes shall be made.

Any such minutes shall describe all matters discussed and shall provide a summary of any actions taken and the

45 CFR Ch. XVI (10–1–17 Edition)

reasons therefor, including a description of each Director's views expressed on any item and the record of each Director's vote on the question. All documents considered in connection with any action shall be identified in the minutes.

(b) A complete copy of the transcript, recording, or minutes required by paragraph (a) of this section shall be maintained at the Corporation for a Board or committee meeting, and at the appropriate Regional Office for a council meeting, for a period of two years after the meeting, or until one year after the conclusion of any Corporation proceeding with respect to which the meeting was held, whichever occurs later.

(c) The Corporation shall make available to the public all portions of the transcript, recording, or minutes required by paragraph (a) of this section that do not contain information that may be withheld under § 1622.5. A copy of those portions of the transcript, recording, or minutes that are available to the public shall be furnished to any person upon request at the actual cost of duplication or transcription.

(d) Copies of Corporation records other than notices or records prepared under this part may be pursued in accordance with part 1602 of these regulations.

§ 1622.9 Emergency procedures.

If, in the opinion of the Chairman, the Directors are rendered incapable of conducting a meeting by the acts or conduct of any members of the public present at the meeting, the Directors may thereupon determine by a recorded vote of the majority of the number of Directors present at the meeting that the Chairman or presiding officer of the Board shall have the authority to have such members of the public who are responsible for such acts or conduct removed from the meeting.

[50 FR 30714, July 29, 1985]

§ 1622.10 Report to Congress.

The Corporation shall report to the Congress annually regarding its compliance with the requirements of the Government in the Sunshine Act, 5 U.S.C. 552(b), including a tabulation of the number of meetings open to the

Legal Services Corporation

§ 1623.4

public, the number of meetings or portions of meetings closed to the public, the reasons for closing such meetings or portions thereof, and a description of any litigation brought against the Corporation under 5 U.S.C. 552b, including any costs assessed against the Corporation in such litigation.

PART 1623—SUSPENSION PROCEDURES

Sec.

- 1623.1 Purpose.
- 1623.2 Definitions.
- 1623.3 Grounds for suspension.
- 1623.4 Suspension procedures.
- 1623.5 Time extensions and waiver.
- 1623.6 Interim funding.

AUTHORITY: 42 U.S.C. 2996e(b)(1), 2996f(a)(3), and 2996f(d); Pub. L. 105-119, Title V, Secs. 501(b), 502, and 503, 111 Stat. 2440, 2510-11; Pub. L. 104-134, Title V, Secs. 503(f) and 509(c), 110 Stat. 1321, 1321-53, 1321-58, and 1321-59.

SOURCE: 78 FR 10098, Feb. 13, 2013, unless otherwise noted.

§ 1623.1 Purpose.

The purpose of this rule is to:

(a) Ensure that the Corporation is able to take prompt action when necessary to safeguard LSC funds or to ensure the compliance of a recipient with applicable provisions of law, or a rule, regulation, guideline or instruction issued by the Corporation, or the terms and conditions of a recipient's grant or contract with the Corporation; and

(b) Provide procedures for prompt review that will ensure informed deliberation by the Corporation when it has made a proposed determination that financial assistance to a recipient should be suspended.

§ 1623.2 Definitions.

For the purposes of this part the definitions in 45 CFR part 1606 shall apply and also:

Suspension means an action taken during the term of the recipient's current year's grant or contract with the Corporation that withholds financial assistance to a recipient, in whole or in part, until the end of the suspension period pending prompt corrective action by the recipient or a decision by

the Corporation to initiate termination proceedings.

§ 1623.3 Grounds for suspension.

(a) Financial assistance provided to a recipient may be suspended when the Corporation determines that there has been a substantial violation by the recipient of the LSC requirements, and the Corporation has reason to believe that prompt action is necessary to:

(1) Safeguard LSC funds; or

(2) Ensure immediate corrective action necessary to bring a recipient into compliance with an applicable provision of law, or a rule, regulation, guideline or instruction issued by the Corporation, or the terms and conditions of the recipient's grant or contract with the Corporation.

(b) Financial assistance provided to a recipient may also be suspended by the Corporation pursuant to a recommendation by the Office of Inspector General when the recipient has failed to have an acceptable audit in accordance with the guidance promulgated by the Corporation's Office of Inspector General.

§ 1623.4 Suspension procedures.

(a) Prior to a preliminary determination involving a suspension of funding, the Corporation shall designate either the President or another senior Corporation employee to conduct any final review that is requested pursuant to this part. The Corporation shall ensure that the person so designated has had no prior involvement in the proceedings under this part so as to meet the criterion of impartiality described in this section.

(b) When the Corporation has made a proposed determination, based on the grounds set out in § 1623.3 of this part, that financial assistance to a recipient should be suspended, the Corporation shall serve a written proposed determination on the recipient. The proposed determination shall:

(1) State the grounds and effective date for the proposed suspension;

(2) Identify, with reasonable specificity, any facts or documents relied upon as justification for the suspension;

§ 1623.4

45 CFR Ch. XVI (10–1–17 Edition)

(3) Specify what, if any, prompt corrective action the recipient can take to avoid or end the suspension;

(4) Advise the recipient that it may request, within 5 business days of receipt of the proposed determination, an informal meeting with the Corporation at which it may attempt to show that the proposed suspension should not be imposed; and

(5) Advise the recipient that, within 10 business days of its receipt of the proposed determination and without regard to whether it requests an informal meeting, it may submit written materials in opposition to the proposed suspension.

(c) If the recipient requests an informal meeting with the Corporation, the Corporation shall designate the time and place for the meeting. The meeting shall occur within 5 business days after the recipient's request is received.

(d) The informal meeting shall be conducted by the Corporation employee who issued the preliminary determination or any other Corporation employee with a seniority level at, or equivalent to, the level of an office director or higher.

(e) At the informal meeting, the Corporation and the recipient shall both have an opportunity to state their case, seek to narrow the issues, explore the possibilities of settlement or compromise including implementation of corrective actions, and submit written materials.

(f) The Corporation shall consider any written materials submitted by the recipient in opposition to the proposed suspension and any oral presentation or written materials submitted by the recipient at an informal meeting. If, after considering such materials, the Corporation determines that the recipient has failed to show that the suspension should not become effective, the Corporation may issue a written final determination to suspend financial assistance to the recipient in whole or in part and under such terms and conditions the Corporation deems appropriate and necessary. The final determination shall include a summary of the issues raised in the informal conference and presented in any written materials. The final determination

need not engage in a detailed analysis of all issues raised.

(g) The final determination shall be promptly transmitted to the recipient in a manner that verifies receipt of the determination by the recipient, and the suspension shall become effective when the final determination is received by the recipient or on such later date as is specified therein.

(h) If a suspension lasts for more than 30 days, then the recipient may seek review of the suspension by the President. A request may be made in writing on the thirty-first day or any day thereafter, and shall state, in detail, the reasons for seeking review.

(1) The President may not review the suspension appeal if the President has had prior involvement in the suspension proceedings. If the President cannot review, or the President chooses not to do so, then the appeal shall be reviewed by either the individual designated to do so pursuant to §1623.4(a) of this part, or by another senior Corporation employee designated by the President who has not had prior involvement in the suspension proceedings.

(2) The President's review shall be based on the administrative record of the proceedings, including the appeal to the President, and any additional submissions, either oral or in writing that the President may request. A recipient shall be given a copy of, and an opportunity to respond to, any additional submissions made to the President. All submissions and responses made to the President shall become part of the administrative record. Upon request, the Corporation shall provide a copy of the administrative record to the recipient.

(3) The President shall affirm, modify, or terminate the suspension through a suspension appeal decision within 15 calendar days of receipt of the appeal by the Corporation, unless the Corporation and the recipient agree to a later date.

(i) The Corporation may at any time rescind or modify the terms of the final determination to suspend and, on written notice to the recipient, may reinstate the suspension without further proceedings under this part.

Legal Services Corporation

§ 1624.3

(j) Except as provided in §1623.4(k) of this part, the total time of a suspension shall not exceed 90 calendar days, unless the Corporation and the recipient agree to a continuation of the suspension without further proceedings under this part.

(k) When the suspension is based on the grounds in §1623.3(b) of this part, a recipient's funds may be suspended until an acceptable audit is completed. No appeal to the President will be available for audit-based suspensions pursuant to §1623.3(b).

§ 1623.5 Time extensions and waiver.

(a) Except for the time limits in §1623.4(i) and (j), any period of time provided in this part may be extended by the Corporation for good cause. Requests for extensions of time shall be considered in light of the overall objective that the procedures prescribed by this part ordinarily shall be concluded within 30 calendar days of the service of the proposed determination.

(b) Any other provision of this part may be waived or modified by agreement of the recipient and the Corporation for good cause.

(c) Failure by the Corporation to meet a time requirement of this part shall not preclude the Corporation from suspending a recipient's grant or contract with the Corporation.

§ 1623.6 Interim funding.

(a) Pending the completion of suspension proceedings under this part, the Corporation shall provide the recipient with the level of financial assistance provided for under its current grant or contract with the Corporation.

(b) Funds withheld pursuant to a suspension shall be released to the recipient at the end of the suspension period.

PART 1624—PROHIBITION AGAINST DISCRIMINATION ON THE BASIS OF DISABILITY

Sec.	
1624.1	Purpose.
1624.2	Application.
1624.3	Definitions.
1624.4	Discrimination prohibited.
1624.5	Accessibility of legal services.
1624.6	Employment.
1624.7	Enforcement.

AUTHORITY: 49 U.S.C. 794; 42 U.S.C. 2996f(a) (1) and (3).

SOURCE: 71 FR 65059, Nov. 7, 2006, unless otherwise noted.

§ 1624.1 Purpose.

The purpose of this part is to assist and provide guidance to legal services programs supported in whole or in part by Legal Services Corporation funds in removing any impediments that may exist to the provision of legal assistance to persons with disabilities eligible for such assistance in accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 and with sections 1007(a) (1) and (3) of the Legal Services Corporation Act, as amended, 42 U.S.C. 2996f(a) (1) and (3), with respect to the provision of services to and employment of persons with disabilities. The requirements of this Part apply in addition to any responsibilities legal services programs may have under applicable requirements of the Americans with Disabilities Act and applicable implementing regulations of the Department of Justice and the Equal Employment Opportunity Commission.

§ 1624.2 Application.

This part applies to each legal services program receiving financial assistance from the Legal Services Corporation.

§ 1624.3 Definitions.

As used in this part, the term:

(a) *Legal services program* means any recipient, as defined by §1600.1 of this chapter, or any other public or private agency, institution, organization, or other entity, or any person to which or to whom financial assistance is extended by the Legal Services Corporation directly or through another agency, institution, organization, entity or person, including any successor, assignee, or transferee of a legal services program, but does not include the ultimate beneficiary of legal assistance;

(b) *Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property;

(c)(1) *Person with a disability* means any person who:

§ 1624.4

(i) Has a physical or mental impairment which substantially limits one or more major life activities,

(ii) has a record of such an impairment, or (iii) is regarded as having such an impairment;

(2) As used in paragraph (c)(1) of this section the phrase:

(i) *Physical or mental impairment* means: (A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities; The phrase includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism;

(ii) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;

(iii) *Has a record of such impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities;

(iv) *Is regarded as having an impairment* means: (A) Has a physical or mental impairment that does not substantially limit major life activities but is treated by a legal services program as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairments; or (C) has none of the impairments defined in paragraph (c)(2)(i) of this section but is treated by a legal services program as having such an impairment;

(d) *Qualified person with a disability* means:

(1) With respect to employment, a person with a disability who, with reasonable accommodation, can perform

45 CFR Ch. XVI (10–1–17 Edition)

the essential functions of the job in question;

(2) with respect to other services, a person with a disability who meets the eligibility requirements for the receipt of such services from the legal services program.

(e) *Auxiliary aids and/or other assistive technologies* means any item, piece of equipment, or product system whether acquired commercially off the shelf, modified or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities. Auxiliary aids and/or other assistive technologies include, but are not limited to, brailled and taped material, interpreters, telecommunications equipment for the deaf, voice recognition software, computer screen magnifiers, screen reader software, wireless amplification systems, and other aids.

§ 1624.4 Discrimination prohibited.

(a) No qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination by any legal services program, directly or through any contractual or other arrangement.

(b) A legal services program may not deny a qualified person with a disability the opportunity to participate in any of its programs or activities or to receive any of its services provided at a facility on the ground that the program operates a separate or different program, activity or facility that is specifically designed to serve persons with disabilities.

(c) In determining the geographic site or location of a facility, a legal services program may not make selections that have the purpose or effect of excluding persons with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity of the legal services program.

(d)(1) A legal services program that employs a total of fifteen or more persons, regardless of whether such persons are employed at one or more locations, shall provide, when necessary, appropriate auxiliary aids and/or other assistive technologies to persons with

Legal Services Corporation

§ 1624.6

impaired sensory, manual or speaking skills, in order to afford such persons an equal opportunity to benefit from the legal services program's services. A legal services program is not required to maintain such aids at all times, provided they can be obtained on reasonable notice.

(2) The Corporation may require legal services programs with fewer than fifteen employees to provide auxiliary aids and/or other assistive technologies where the provision of such aids would not significantly impair the ability of the legal services program to provide its services.

(e) A legal services program shall take reasonable steps to ensure that communications with its applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

(f) A legal services program may not deny persons with disabilities the opportunity to participate as members of or in the meetings or activities of any planning or advisory board or process established by or conducted by the legal services program, including but not limited to meetings and activities conducted in response to the requirements of 45 CFR part 1620.

§ 1624.5 Accessibility of legal services.

(a) No qualified person with a disability shall, because a legal services program's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination by any legal services program.

(b) A legal services program shall conduct its programs and activities so that, when viewed in their entirety, they are readily accessible to and usable by persons with disabilities. This paragraph does not necessarily require a legal services program to make each of its existing facilities or every part of an existing facility accessible to and usable by persons with disabilities, or require a legal services program to make structural changes in existing facilities when other methods are effective in achieving compliance. In choosing among available methods for meeting the requirements of this paragraph, a legal services program shall give pri-

ority to those methods that offer legal services to persons with disabilities in the most integrated setting appropriate.

(c) A legal services program shall, to the maximum extent feasible, ensure that new facilities that it rents or purchases are accessible to persons with disabilities. Prior to entering into any lease or contract for the purchase of a building, a legal services program shall submit a statement to LSC certifying that the facilities covered by the lease or contract will be accessible to persons with disabilities, or if the facilities will not be accessible, a detailed description of the efforts the program made to obtain accessible space, the reasons why the inaccessible facility was nevertheless selected, and the specific steps that will be taken by the legal services program to ensure that its services are accessible to persons with disabilities who would otherwise use that facility. After a statement certifying facility accessibility has been submitted, additional statements need not be resubmitted with respect to the same facility, unless substantial changes have been made in the facility that affect its accessibility.

(d) A legal services program shall ensure that new facilities designed or constructed for it are readily accessible to and usable by persons with disabilities. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to make the altered facilities readily accessible to and usable by persons with disabilities.

§ 1624.6 Employment.

(a) No qualified person with a disability shall, on the basis of disability, be subjected to discrimination in employment by any legal services program.

(b) A legal services program shall make all decisions concerning employment under any program or activity to which this part applies in a manner that ensures that discrimination on the basis of disability does not occur, and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of disability.

§ 1624.6

45 CFR Ch. XVI (10–1–17 Edition)

(c) The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the legal services program;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(d) A legal services program may not participate in any contractual or other relationship with persons, agencies, organizations or other entities such as, but not limited to, employment and referral agencies, labor unions, organizations providing or administering fringe benefits to employees of the legal services program, and organizations providing training and apprenticeship programs, if the practices of such person, agency, organization, or other entity have the effect of subjecting qualified applicants or employees with disabilities to discrimination prohibited by this paragraph.

(e) A legal services program shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee with a disability unless the accommodation would impose an undue hardship on the operation of the program.

(1) For purposes of this paragraph (e), reasonable accommodation may include:

(i) Making facilities used by employees readily accessible to and usable by persons with disabilities; and

(ii) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of auxiliary aids and/or other assistive technologies, and other similar actions.

(2) In determining whether an accommodation would impose an undue hardship on the operation of a legal services program, factors to be considered include, but are not limited to, the overall size of the legal services program with respect to number of employees, number and type of facilities, and size of budget, and the nature and costs of the accommodation needed.

(3) A legal services program may not deny any employment opportunity to a qualified employee or applicant with a disability if the basis for the denial is a need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

(f) A legal services program may not use employment tests or criteria that discriminate against persons with disabilities, and shall ensure that employment tests are adapted for use by persons who have disabilities that impair sensory, manual, or speaking skills.

(g) A legal services program may not conduct a pre-employment medical examination or make a pre-employment inquiry as to whether an applicant is a person with a disability or as to the nature or severity of a disability except under the circumstances described in 45 CFR 84.14(a) through (d)(2). The Corporation shall have access to relevant information obtained in accordance with this section to permit investigations of alleged violations of this part.

(h) A legal services program shall post in prominent places in each of its offices a notice stating that the legal services program does not discriminate on the basis of disability.

(i) Any recruitment materials published or used by a legal services program shall include a statement that the legal services program does not discriminate on the basis of disability.

§ 1624.7 Enforcement.

(a) The procedures described in part 1618 of these regulations shall apply to any alleged violation of this Part by a legal services program.

(b) When LSC receives a complaint of a violation of this part, LSC policy is generally to refer such complainants promptly to the appropriate Federal, state or local agencies, although LSC retains the discretion to investigate all complaints and/or to maintain an open complaint file during the pendency of an investigation being conducted by such other Federal, state or local agency. LSC may use, at its discretion, information obtained by such other agency as may be available to LSC, including findings of such other agency of whether discrimination on the basis of disability occurred.

PART 1625 [RESERVED]

PART 1626—RESTRICTIONS ON LEGAL ASSISTANCE TO ALIENS

Sec.

- 1626.1 Purpose.
- 1626.2 Definitions.
- 1626.3 Prohibition.
- 1626.4 Aliens eligible for assistance under anti-abuse laws.
- 1626.5 Aliens eligible for assistance based on immigration status.
- 1626.6 Verification of citizenship.
- 1626.7 Verification of eligible alien status.
- 1626.8 Emergencies.
- 1626.9 Change in circumstances.
- 1626.10 Special eligibility questions.
- 1626.11 H-2 agricultural and forestry workers.
- 1626.12 Recipient policies, procedures, and recordkeeping.

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

SOURCE: 79 FR 21871, Apr. 18, 2014, unless otherwise noted.

§ 1626.1 Purpose.

This part is designed to ensure that recipients provide legal assistance only to citizens of the United States and eligible aliens. It is also designed to assist recipients in determining the eligibility and immigration status of persons who seek legal assistance.

§ 1626.2 Definitions.

(a) *Anti-abuse statutes* means the Violence Against Women Act of 1994, Pub. L. 103-322, 108 Stat. 1941, as amended, and the Violence Against Women and Department of Justice Reauthorization Act of 2005, Public Law 109-162, 119 Stat. 2960 (collectively referred to as “VAWA”); Section 101(a)(15)(U) of the INA, 8 U.S.C. 1101(a)(15)(U); and the incorporation of these statutory provisions in section 502(a)(2)(C) of LSC’s FY 1998 appropriation, Public Law 105-119, Title V, 111 Stat. 2440, 2510 as incorporated by reference thereafter; the Victims of Trafficking and Violence Protection Act of 2000, Public Law 106-386, 114 Stat. 1464 (“TVPA”), as amended; and Section 101(a)(15)(T) of the Immigration and Nationality Act (“INA”), 8 U.S.C. 1101(a)(15)(T).

(b) *Battered or subjected to extreme cruelty* includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution may be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence.

(c) *Certification* means the certification prescribed in 22 U.S.C. 7105(b)(1)(E).

(d) *Citizen* means a person described or defined as a citizen or national of the United States in 8 U.S.C. 1101(a)(22) and Title III of the Immigration and Nationality Act (INA), Chapter 1 (8 U.S.C. 1401 *et seq.*) (citizens by birth) and Chapter 2 (8 U.S.C. 1421 *et seq.*) (citizens by naturalization) or antecedent citizen statutes.

(e) *Eligible alien* means a person who is not a citizen but who meets the requirements of § 1626.4 or § 1626.5.

(f) *Ineligible alien* means a person who is not a citizen and who does not meet the requirements of § 1626.4 or § 1626.5.

(g) *On behalf of* an ineligible alien means to render legal assistance to an

§ 1626.3

eligible client that benefits an ineligible alien and does not affect a specific legal right or interest of the eligible client.

(h)(1) *Qualifies for immigration relief under section 101(a)(15)(U) of the INA* means:

(i) A person who has been granted relief under that section;

(ii) A person who has applied for relief under that section and who the recipient determines has evidentiary support for such application; or

(iii) A person who has not filed for relief under that section, but who the recipient determines has evidentiary support for filing for such relief.

(2) A person who *qualifies for immigration relief under section 101(a)(15)(U) of the INA* includes any person who may apply for primary U visa relief under subsection (i) of section 101(a)(15)(U) of the INA (8 U.S.C. 1101(a)(15)(U)(i)) or for derivative U visa relief for family members under subsection (ii) of section 101(a)(15)(U) of the INA (8 U.S.C. 1101(a)(15)(U)(ii)). Recipients may provide assistance for any person who qualifies for derivative U visa relief regardless of whether such a person has been subjected to abuse.

(i) *Rejected* refers to an application for adjustment of status that has been denied by the Department of Homeland Security (DHS) and is not subject to further administrative appeal.

(j) *Victim of severe forms of trafficking* means any person described at 22 U.S.C. 7105(b)(1)(C).

(k) *Victim of sexual assault or trafficking* means:

(1) A *victim of sexual assault* subjected to any conduct included in the definition of sexual assault in VAWA, 42 U.S.C. 13925(a)(29); or

(2) A *victim of trafficking* subjected to any conduct included in the definition of “trafficking” under law, including, but not limited to, local, state, and federal law, and T visa holders regardless of certification from the U.S. Department of Health and Human Services (HHS).

(1) *United States*, for purposes of this part, has the same meaning given that term in section 101(a)(38) of the INA (8 U.S.C. 1101(a)(38)).

[79 FR 30052, May 27, 2014]

45 CFR Ch. XVI (10–1–17 Edition)

§ 1626.3 Prohibition.

Recipients may not provide legal assistance for or on behalf of an ineligible alien. For purposes of this part, legal assistance does not include normal intake and referral services.

§ 1626.4 Aliens eligible for assistance under anti-abuse laws.

(a) Subject to all other eligibility requirements and restrictions of the LSC Act and regulations and other applicable law:

(1) A recipient may provide related legal assistance to an alien who is within one of the following categories:

(i) An alien who has been battered or subjected to extreme cruelty, or is a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section 101(a)(15)(U) of the INA (8 U.S.C. 1101(a)(15)(U)); or

(ii) An alien whose child, without the active participation of the alien, has been battered or subjected to extreme cruelty, or has been a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section 101(a)(15)(U) of the INA (8 U.S.C. 1101(a)(15)(U)).

(2)(i) A recipient may provide legal assistance, including but not limited to related legal assistance, to:

(A) An alien who is a victim of severe forms of trafficking of persons in the United States; or

(B) An alien classified as a non-immigrant under section 101(a)(15)(T)(ii) of the INA (8 U.S.C. 1101(a)(15)(T)(ii), regarding others related to the victim).

(ii) For purposes of this part, aliens described in paragraphs (a)(2)(i)(A) and (a)(2)(i)(B) of this section include individuals seeking certification as victims of severe forms of trafficking and certain family members applying for immigration relief under section 101(a)(15)(T)(ii) of the INA (8 U.S.C. 1101(a)(15)(T)(ii)).

(b) (1) *Related legal assistance* means legal assistance directly related:

(i) To the prevention of, or obtaining relief from, the battery, cruelty, sexual assault, or trafficking;

(ii) To the prevention of, or obtaining relief from, crimes listed in section 101(a)(15)(U)(iii) of the INA (8 U.S.C. 1101(a)(15)(U)(iii)); or

Legal Services Corporation

§ 1626.4

(iii) To an application for relief:

(A) Under section 101(a)(15)(U) of the INA (8 U.S.C. 1101(a)(15)(U)); or

(B) Under section 101(a)(15)(T) of the INA (8 U.S.C. 1101(a)(15)(T)).

(2) Such assistance includes representation in matters that will assist a person eligible for assistance under this part to escape from the abusive situation, ameliorate the current effects of the abuse, or protect against future abuse, so long as the recipient can show the necessary connection of the representation to the abuse. Such representation may include immigration law matters and domestic or poverty law matters (such as obtaining civil protective orders, divorce, paternity, child custody, child and spousal support, housing, public benefits, employment, abuse and neglect, juvenile proceedings and contempt actions).

(c) *Relationship to the United States.* An alien must satisfy both paragraph (c)(1) and either paragraph (c)(2)(i) or (ii) of this section to be eligible for legal assistance under this part.

(1) *Relation of activity to the United States.* An alien is eligible under this section if the activity giving rise to eligibility violated a law of the United States, regardless of where the activity occurred, or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States.

(2) *Relationship of alien to the United States.* (i) An alien defined in §1626.2(b), (h), or (k)(1) need not be present in the United States to be eligible for assistance under this section.

(ii) An alien defined in §1626.2(j) or (k)(2) must be present in the United States to be eligible for assistance under this section.

(d) *Evidentiary support—(1) Intake and subsequent evaluation.* A recipient may determine that an alien is qualified for assistance under this section if there is evidentiary support that the alien falls into any of the eligibility categories or if the recipient determines there will likely be evidentiary support after a reasonable opportunity for further investigation. If the recipient determines that an alien is eligible because there will likely be evidentiary support, the recipient must obtain evidence of sup-

port as soon as possible and may not delay in order to provide continued assistance.

(2) *Documentary evidence.* Evidentiary support may include, but is not limited to, affidavits or unsworn written statements made by the alien; written summaries of statements or interviews of the alien taken by others, including the recipient; reports and affidavits from police, judges, and other court officials, medical personnel, school officials, clergy, social workers, other social service agency personnel; orders of protection or other legal evidence of steps taken to end abuse; evidence that a person sought safe haven in a shelter or similar refuge; photographs; documents; or other evidence of a series of acts that establish a pattern of qualifying abuse.

(3) *Victims of severe forms of trafficking.* Victims of severe forms of trafficking may present any of the forms of evidence listed in paragraph (d)(2) of this section or any of the following:

(i) A certification letter issued by the Department of Health and Human Services (HHS).

(ii) Verification that the alien has been certified by calling the HHS trafficking verification line, (202) 401-5510 or (866) 401-5510.

(iii) An interim eligibility letter issued by HHS, if the alien was subjected to severe forms of trafficking while under the age of 18.

(iv) An eligibility letter issued by HHS, if the alien was subjected to severe forms of trafficking while under the age of 18.

(e) *Recordkeeping.* Recipients are not required by §1626.12 to maintain records regarding the immigration status of clients represented pursuant to this section. If a recipient relies on an immigration document for the eligibility determination, the recipient shall document that the client presented an immigration document by making a note in the client's file stating that a staff member has seen the document, the type of document, the client's alien registration number ("A number"), the date of the document, and the date of the review, and containing the signature of the staff member that reviewed the document.

§ 1626.5

(f) *Changes in basis for eligibility.* If, during the course of representing an alien eligible pursuant to § 1626.4(a)(1), a recipient determines that the alien is also eligible under § 1626.4(a)(2) or § 1626.5, the recipient should treat the alien as eligible under that section and may provide all the assistance available pursuant to that section.

§ 1626.5 Aliens eligible for assistance based on immigration status.

Subject to all other eligibility requirements and restrictions of the LSC Act and regulations and other applicable law, a recipient may provide legal assistance to an alien who is present in the United States and who is within one of the following categories:

(a) An alien lawfully admitted for permanent residence as an immigrant as defined by section 101(a)(20) of the INA (8 U.S.C. 1101(a)(20));

(b) An alien who is either married to a United States citizen or is a parent or an unmarried child under the age of 21 of such a citizen and who has filed an application for adjustment of status to permanent resident under the INA, and such application has not been rejected;

(c) An alien who is lawfully present in the United States pursuant to an admission under section 207 of the INA (8 U.S.C. 1157) (relating to refugee admissions) or who has been granted asylum by the Attorney General or the Secretary of DHS under section 208 of the INA (8 U.S.C. 1158);

(d) An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)), as in effect on March 31, 1980) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity;

(e) An alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation or exclusion under section 243(h) of the INA (8 U.S.C. 1253(h)), as in effect on April 16, 1996) or withholding of removal pursuant to section 241(b)(3) of the INA (8 U.S.C. 1231(b)(3)); or

(f) An alien who meets the requirements of § 1626.10 or § 1626.11.

45 CFR Ch. XVI (10–1–17 Edition)

§ 1626.6 Verification of citizenship.

(a) A recipient shall require all applicants for legal assistance who claim to be citizens to attest in writing in a standard form provided by the Corporation that they are citizens, unless the only service provided for a citizen is brief advice and consultation by telephone, or by other non-in-person means, which does not include continuous representation.

(b) When a recipient has reason to doubt that an applicant is a citizen, the recipient shall require verification of citizenship. A recipient shall not consider factors such as a person's accent, limited English-speaking ability, appearance, race, or national origin as a reason to doubt that the person is a citizen.

(1) If verification is required, a recipient may accept originals, certified copies, or photocopies that appear to be complete, correct, and authentic of any of the following documents as evidence of citizenship:

(i) United States passport;
(ii) Birth certificate;
(iii) Naturalization certificate;
(iv) United States Citizenship Identification Card (INS Form I-197 or I-197);
or

(v) Baptismal certificate showing place of birth within the United States and date of baptism within two months after birth.

(2) A recipient may also accept any other authoritative document, such as a document issued by DHS, by a court, or by another governmental agency, that provides evidence of citizenship.

(3) If a person is unable to produce any of the above documents, the person may submit a notarized statement signed by a third party, who shall not be an employee of the recipient and who can produce proof of that party's own United States citizenship, that the person seeking legal assistance is a United States citizen.

§ 1626.7 Verification of eligible alien status.

(a) An alien seeking representation shall submit appropriate documents to verify eligibility, unless the only service provided for an eligible alien is brief advice and consultation by telephone, or by other non-in-person

Legal Services Corporation

§ 1626.10

means, which does not include continuous representation of a client.

(1) As proof of eligibility, a recipient may accept originals, certified copies, or photocopies that appear to be complete, correct, and authentic, of any documents establishing eligibility. LSC will publish a list of examples of such documents from time to time in the form of a program letter or equivalent.

(2) A recipient may also accept any other authoritative document issued by DHS, by a court, or by another governmental agency, that provides evidence of alien status.

(b) A recipient shall upon request furnish each person seeking legal assistance with a current list of documents establishing eligibility under this part as is published by LSC.

§ 1626.8 Emergencies.

In an emergency, legal services may be provided prior to compliance with §§ 1626.4, 1626.6, and 1626.7 if:

(a) An applicant cannot feasibly come to the recipient's office or otherwise transmit written documentation to the recipient before commencement of the representation required by the emergency, and the applicant provides oral information to establish eligibility which the recipient records, and the applicant submits the necessary documentation as soon as possible; or

(b) An applicant is able to come to the recipient's office but cannot produce the required documentation before commencement of the representation, and the applicant signs a statement of eligibility and submits the necessary documentation as soon as possible; and

(c) The recipient informs clients accepted under paragraph (a) or (b) of this section that only limited emergency legal assistance may be provided without satisfactory documentation and that, if the client fails to produce timely and satisfactory written documentation, the recipient will be required to discontinue representation consistent with the recipient's professional responsibilities.

§ 1626.9 Change in circumstances.

If, to the knowledge of the recipient, a client who was an eligible alien be-

comes ineligible through a change in circumstances, continued representation is prohibited by this part and a recipient must discontinue representation consistent with applicable rules of professional responsibility.

§ 1626.10 Special eligibility questions.

(a)(1) This part is not applicable to recipients providing services in the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, or the Republic of the Marshall Islands.

(2) All citizens of the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands residing in the United States are eligible to receive legal assistance provided that they are otherwise eligible under the Act.

(b) All Canadian-born American Indians at least 50% Indian by blood are eligible to receive legal assistance provided they are otherwise eligible under the Act.

(c) Members of the Texas Band of Kickapoo are eligible to receive legal assistance provided they are otherwise eligible under the Act.

(d) An alien who qualified as a special agricultural worker and whose status is adjusted to that of temporary resident alien under the provisions of the Immigration Reform and Control Act ("IRCA") is considered a permanent resident alien for all purposes except immigration under the provisions of section 302 of 100 Stat. 3422, 8 U.S.C. 1160(g). Since the status of these aliens is that of permanent resident alien under section 101(a)(20) of the INA (8 U.S.C. 1101(a)(20)), these workers may be provided legal assistance. These workers are ineligible for legal assistance in order to obtain the adjustment of status of temporary resident under IRCA, but are eligible for legal assistance after the application for adjustment of status to that of temporary resident has been filed, and the application has not been rejected.

(e) A recipient may provide legal assistance to indigent foreign nationals who seek assistance pursuant to the Hague Convention on the Civil Aspects of International Child Abduction and the Federal implementing statute, the

§ 1626.11

International Child Abduction Remedies Act, 42 U.S.C. 11607(b), provided that they are otherwise financially eligible.

§ 1626.11 H-2 agricultural and forestry workers.

(a) Nonimmigrant agricultural workers admitted to, or permitted to remain in, the United States under the provisions of section 101(a)(15)(h)(ii)(a) of the INA (8 U.S.C. 1101(a)(15)(h)(ii)(a)), commonly called H-2A agricultural workers, may be provided legal assistance regarding the matters specified in paragraph (c) of this section.

(b) Nonimmigrant forestry workers admitted to, or permitted to remain in, the United States under the provisions of section 101(a)(15)(h)(ii)(b) of the INA (8 U.S.C. 1101(a)(15)(h)(ii)(b)), commonly called H-2B forestry workers, may be provided legal assistance regarding the matters specified in paragraph (c) of this section.

(c) The following matters which arise under the provisions of the worker's specific employment contract may be the subject of legal assistance by an LSC-funded program:

- (1) Wages;
- (2) Housing;
- (3) Transportation; and

(4) Other employment rights as provided in the worker's specific contract under which the nonimmigrant worker was admitted.

§ 1626.12 Recipient policies, procedures, and recordkeeping.

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

[79 FR 21871, Apr. 18, 2014]

PART 1627—SUBGRANTS

Sec.

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

45 CFR Ch. XVI (10–1–17 Edition)

1627.7 Recipient policies, procedures and recordkeeping.

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

SOURCE: 82 FR 10283, Feb. 10, 2017, unless otherwise noted.

§ 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) *Procurement contract* means an agreement between a recipient and a third party under which the recipient purchases property or services that does not qualify as a subgrant as defined in paragraph (e)(1) of this section.

(c) *Property* means real estate or personal property.

(d) *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.

(e) *Subgrant*. (1) Subgrant means an award of LSC funds or property or services purchased in whole or in part with LSC funds from a recipient to a subrecipient for the subrecipient to carry out part of the recipient's legal assistance activities. A subgrant has the characteristics set forth in § 1627.3(b).

(2) *Subgrant* includes fee-for-service arrangements, such as those provided by a private law firm or attorney representing a recipient's clients on a contract or *judicare* basis, only when the cost of such arrangements exceed \$60,000.

(f) *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 in paragraph (b) of this section may not be present in all cases, and the recipient must use judgment in classifying each agreement as a subgrant or a procurement contract. The recipient must make case-by-case determinations whether each agreement that it makes with another entity constitutes a subgrant or a procurement contract.

(b) Characteristics that support the classification of the agreement as a subgrant include when the other 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 objectives of the LSC grant were met;

(3) Has responsibility for programmatic decision-making regarding the delivery of legal assistance under the recipient's LSC grant;

(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 or property or services acquired in whole or in part with 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.

§1627.4 Requirements for all subgrants.

(a) *Threshold.* (1) A recipient must obtain LSC's written approval prior to making a subgrant when the cost of the subgrant is \$20,000 of LSC funds or greater.

(2) *Valuation of in-kind subgrants.* (i) If either the actual cost to the recipient of the subgranted property or service or the fair market value of the subgranted property or service exceeds \$20,000 of LSC funds, the recipient must seek written approval from LSC prior to making a subgrant.

(ii) The valuation of the subgrant, either by fair market value or actual cost to the recipient of property or services, must be documented and to

the extent feasible supported by the same methods used internally by the recipient.

(b) *Corporation approval of subgrants.* Recipients must submit all applications for subgrants exceeding the \$20,000 threshold to LSC in writing for prior written approval. LSC will publish notice of the requirements concerning the format and contents of the application annually in the FEDERAL REGISTER and on LSC's Web site.

(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 renewal of funding.

(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, emergency relief grants), should submit their subgrant applications following notification of approval of special grant funds.

(ii) A subgrant application must be submitted at least 45 days in advance of its proposed effective date. Within 45 days of the date of receipt, LSC will notify the recipient in writing of its decision to approve, disapprove, or suggest modifications to the subgrant; or, if LSC has not made a decision, the date by which LSC expects to make a decision. A subgrant that is disapproved or to which LSC has suggested modifications may be resubmitted for approval.

(3) *Mid-year subgrant requests.* A recipient may apply for prior approval of a subgrant outside of the periods prescribed in paragraphs (a)(1) and (2) of this section as needed. 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) *Failure to comply.* Any subgrant not approved according to paragraphs (a)(1) through (3) of this section will be

subject to disallowance and recovery of all funds expended under the subgrant.

(5) *Changes to subgrants requiring prior approval.* (i) If a recipient needs to make substantial changes to the scope or objectives, or increase or decrease the amount of funding of more than 10%, of a subgrant approved under paragraph (b) of this section, the recipient must obtain LSC's prior written approval. Minor changes in the scope or objectives or changes in support of less than 10% do not require prior approval, but the recipient must notify LSC of such changes in writing.

(ii) If a subgrant did not require prior approval, and the recipient proposes a change that will cause the total value of the subgrant to exceed the threshold for prior approval, the recipient must obtain LSC's prior written approval before making the change.

(c) *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, emergency relief 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.

(d) *Provisions for termination and suspension of subgrants.* 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.

(e) *Recipient responsibilities.* (1) Recipients must ensure that subrecipients comply with LSC's financial and audit provisions to the extent required by this part.

(2) The recipient must ensure that the subrecipient properly spends, accounts for, and audits funds or property or services acquired in whole or in part with LSC 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.

(f) *Accounting and auditing requirements—(1) Subgrants of funds.* (i) 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. The relationship between the recipient and subrecipient will determine the proper method of financial reporting following generally accepted accounting principles.

(ii) 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. A subgrant agreement may provide for alternative means of assuring the propriety of subrecipient expenditures, especially in instances where an organization receives a small subgrant. Any request to use an alternative means of assuring propriety of subrecipient funds must be submitted to LSC for consideration as part of the subgrant approval process. If LSC approves a request to use an alternative means, the information provided thereby shall satisfy the recipient's annual audit requirement with regard to the subgrant funds.

(2) *In-kind subgrants.* (i) The value of property or services funded in whole or in part with LSC funds provided by a recipient to a subrecipient through a subgrant is subject to the audit and financial requirements of the Audit Guide for Recipients and Auditors and the Accounting Guide for LSC Recipients. The relationship between the recipient and subrecipient will determine the proper method of financial reporting following generally accepted accounting principles.

(ii) Subgrants involving in-kind exchanges of property or services may be separately disclosed and accounted for, and reported upon in the audited financial statements of a recipient. A subgrant agreement may provide for alternative means of assuring the propriety of subrecipient expenditures and use of property or services acquired in

Legal Services Corporation

§ 1627.5

whole or in part with LSC funds, especially in instances where an organization receives a small subgrant. Any request to use an alternative means of assuring propriety of subrecipient funds must be submitted to LSC for consideration as part of the subgrant approval process. If LSC approves a request to use an alternative means, the information provided thereby shall satisfy the recipient's annual audit requirement with regard to the subgrant funds.

(iii) If accounting for in-kind subgrants is not practicable, a recipient may convert the subgrant to a cash payment and follow the accounting procedures in paragraph (f)(1) of this section.

(iv) Subrecipients described in §1627.5(d)(2) are not subject to the audit and financial requirements of the Audit Guide for Recipients and Auditors and the Accounting Guide for LSC Recipients. Such subrecipients must have financial management systems in place that would allow the recipient and LSC to determine that any resources the subrecipient receives or uses under the subgrant are used consistent with 45 CFR part 1610.

(g) *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 subgrants as apply to recipients.

§1627.5 Applicability of restrictions, recordkeeping, 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) *Recordkeeping.* A recipient must be able to account for how its subrecipients spend LSC funds or use property or services funded in whole or in part with LSC funds. A subrecipient must provide to the recipient records as described in paragraphs (c)(1) and (2) of this section.

(1) A subrecipient that handles matters as defined at 45 CFR 1635.2(b) must maintain adequate records to demonstrate that its attorneys and paralegals used the LSC funds or property or services funded in whole or in part with LSC funds:

(i) To carry out the activities described in the subgrant agreement; and

(ii) Consistent with the restrictions set forth at 45 CFR part 1610.

(2) A subrecipient that handles cases as defined at 45 CFR 1635.2(a):

(i) Must require its attorneys and paralegals to maintain records for each case that show the amount of time spent on the case and the activity conducted by date, and a unique client name or case number; and

(ii) Either the subrecipient or the recipient must maintain records for each case that show the problem type and the closing code for the case.

(iii) This requirement does not apply to subrecipients described in paragraph (d)(2)(ii) of this section.

(3) A subrecipient who handles both cases and matters must maintain the types of records described in paragraphs (c)(1) and (2).

(d) *Subgrants for engaging private attorneys—*(1) *Subgrants of funds.* The prohibitions and requirements set forth in 45 CFR part 1610 apply *only* to the subgranted funds 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) *In-kind subgrants.* The prohibitions and requirements set forth in 45 CFR part 1610 apply *only* to the subgranted property or services acquired in whole or in part with LSC funds 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:

§ 1627.6

(i) Conducting private attorney involvement activities (PAI) pursuant to 45 CFR part 1614; or

(ii) Providing legal information or legal assistance on a *pro bono* or reduced fee basis to individuals who have been screened and found eligible to receive legal assistance from an LSC recipient.

(3) *Treatment of non-LSC funds.* Any funds or property or services acquired in whole or in part with LSC funds and used by a recipient as payment for a PAI subgrant are deemed LSC funds for purposes of this paragraph (d).

(4) *Recordkeeping exception.* The recordkeeping requirement in paragraph (c) of this section does not apply to private attorneys providing legal assistance on a *pro bono* or reduced fee basis.

§ 1627.6 Transfers to other recipients.

(a) The requirements of this part apply to all subgrants from one recipient to another recipient.

(b) The subrecipient must audit any funds or property or services acquired in whole or in part with LSC 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.

§ 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.

45 CFR Ch. XVI (10–1–17 Edition)

PART 1628—RECIPIENT FUND BALANCES

Sec.

1628.1 Purpose.

1628.2 Definitions.

1628.3 Policy.

1628.4 Procedures.

1628.5 Fund balance deficits.

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

SOURCE: 65 FR 66642, Nov. 7, 2000, unless otherwise noted.

§ 1628.1 Purpose

The purpose of this part is to set out the Corporation's policies and procedures applicable to recipient fund balances. The Corporation's fund balance policies are intended to ensure the timely expenditure of LSC funds for the effective and economical provision of high quality legal assistance to eligible clients.

§ 1628.2 Definitions.

(a) *Excess fund balance* means a recipient's LSC fund balance that exceeds the amount a recipient is permitted to retain under this part.

(b) *LSC support* means the sum of:

(1) The amount of financial assistance awarded by the Corporation to the recipient for the fiscal year included in the recipient's annual audited financial statement, not including one-time and special purpose grants; and

(2) Any LSC derivative income, as defined in § 1630.2(c), earned by the recipient for the fiscal year included in the recipient's annual audited financial statement, not including derivative income from one-time and special purpose grants.

(c) The *LSC fund balance* is the excess of LSC support plus the prior year carryover amount over expenditures of LSC funds (including capital acquisitions), as each is reported in the recipient's annual financial statements.

(d) The *fund balance percentage* is the amount of the LSC fund balance expressed as a percentage of the recipient's LSC support.

(e) *Recipient*, as used in this part, means any grantee or contractor receiving financial assistance from the Corporation under section 1006(a)(1)(A) of the LSC Act.

Legal Services Corporation

§ 1628.4

§ 1628.3 Policy.

(a) Recipients are permitted to retain from one fiscal year to the next LSC fund balances up to 10% of their LSC support.

(b) Recipients may request a waiver to retain a fund balance up to a maximum of 25% of their LSC support for special circumstances.

(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).

(e) In the absence of a waiver, a fund balance in excess of 10% of LSC support shall be repaid to the Corporation. If a waiver of the 10% ceiling is granted, any fund balance in excess of the amount permitted to be retained shall be repaid to the Corporation.

(f) A recovery of an excess fund balance pursuant to this part does not constitute a termination under 45 CFR part 1606. See § 1606.2(c)(2)(ii).

(g) One-time and special purpose grants awarded by the Corporation are not subject to the fund balance policy set forth in this part. Revenue and expenses relating to such grants shall be reflected separately in the audit report submitted to the Corporation. This may be done by establishing a separate fund or by providing a separate supplemental schedule of revenue and expenses related to such grants as a part of the audit report. No funds provided under a one-time or special purpose grant may be expended subsequent to the expiration date of the grant without the prior written approval of the Corporation. Absent approval from the Corporation, all unexpended funds

under such grants shall be returned to the Corporation.

[65 FR 66642, Nov. 7, 2000, as amended at 80 FR 43968, July 24, 2015]

§ 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:

(1) The LSC fund balance as reported in the recipient's annual audited financial statements;

(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;

(4) The amount of fund balance projected to be carried forward at the close of the recipient's current fiscal year; and

(5) The special circumstances justifying the retention of the excess fund balance up to 25%, or the extraordinary and compelling circumstances set out in § 1628.3(c) justifying a fund balance in excess of 25%.

(b) Within 45 days of receipt of the recipient's waiver request submitted pursuant to paragraph (a) of this section, the Corporation shall provide a written response to the request and a written notice to the recipient of any fund balance due and payable to the Corporation as well as the method for repayment.

(c) In the event that repayment is required, the Corporation shall give written notice 30 days prior to the effective date for repayment. Repayment shall be in a lump sum or by pro rata deductions from the recipient's grant checks for a specific number of months. The Corporation shall determine which of the specified methods of repayment is reasonable and appropriate in each case after consultation with the recipient.

(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

§ 1628.5

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.

(e) The Corporation's written approval of a request for a waiver shall require that the recipient use the funds it is permitted to retain within the time period set out in the approval and for the purposes approved by the Corporation.

(f) Excess fund balances approved by the Corporation for expenditure by a recipient shall be separately reported by natural line item in the current fiscal year's audited financial statements. This may be done by establishing a separate fund or by providing a separate supplemental schedule as part of the audit report.

(g) The recipient shall promptly inform and seek guidance from the Corporation when it determines a need for any changes to the conditions on timing or purposes set out in the Corporation's written approval of a recipient's request for a waiver.

[65 FR 66642, Nov. 7, 2000, as amended at 80 FR 43968, July 24, 2015]

§ 1628.5 Fund balance deficits.

(a) Sound financial management practices such as those set out in Chapter 3 of the Corporation's Accounting Guide for LSC Recipients should preclude deficit spending. Use of current year LSC grant funds to liquidate deficit balances in the LSC fund from a preceding period requires the prior written approval of the Corporation.

(b) Within 30 days of the submission of the recipient's annual audit, the recipient may apply to the Corporation for approval of the expenses associated with the liquidation of the deficit balance in the LSC fund.

45 CFR Ch. XVI (10–1–17 Edition)

(c) In the absence of approval by the Corporation, expenditures of current year LSC grant funds to liquidate a deficit from a prior year shall be identified as questioned costs under 45 CFR part 1630.

(d) The recipient's request must specify the same information relative to the deficit LSC fund balance as that set forth in §1628.4(a)(1) and (2). Additionally, the recipient must develop and submit a plan approved by its governing body describing the measures which will be implemented to prevent a recurrence of a deficit balance in the LSC fund. The Corporation reserves the right to require changes in the submitted plan.

(e) The decision of the Corporation regarding acceptance of these deficit-related costs shall be guided by the statutory mandate requiring the recipient to provide high quality legal services performed in an effective and economical manner. Special consideration will be given for emergencies, unusual occurrences, or other special circumstances giving rise to a deficit balance.

PART 1629—BONDING REQUIREMENTS FOR RECIPIENTS

Sec.

1629.1 Purpose.

1629.2 Definitions.

1629.3 Who must be bonded?

1629.4 What forms of bonds can recipients use?

1629.5 What losses must the bond cover?

1629.6 What is the required minimum level of coverage?

1629.7 Can LSC funds be used to cover bonding costs?

AUTHORITY: 42 U.S.C. 2996e(1)(A) and 2996f(3).

SOURCE: 82 FR 37180, Aug. 9, 2017, unless otherwise noted.

§ 1629.1 Purpose.

This part is intended to protect LSC funds by requiring that recipients be bonded or have similar insurance coverage to indemnify recipients against losses resulting from fraudulent or dishonest acts committed by one or more employees, officers, directors, agents, volunteers, and third-party contractors who handle LSC funds.

§ 1629.2 Definitions.

Annualized funding level means the amount of:

(1) Basic Field Grant funds (including Agricultural Worker and Native American) and (2) Special grants of LSC funds, including Technology Initiative Grants, Pro Bono Innovation Fund grants, and emergency relief grants, awarded by LSC to the recipient for the fiscal year included in the recipient's annual audited financial statements.

§ 1629.3 Who must be bonded?

(a) A recipient must supply fidelity bond coverage for all employees, officers, directors, agents, and volunteers.

(b) If a recipient uses a third party for payroll, billing, or collection services, the recipient must either supply coverage covering the third party or ensure that the third party has a fidelity bond or similar insurance coverage.

(c) For recipients with subgrants:

(1) The recipient must extend its fidelity bond coverage to supply identical coverage to the subrecipient and the subrecipient's directors, officers, employees, agents, and volunteers to the extent required to comply with this Part; or

(2) The subrecipient must supply proof of its own fidelity bond coverage that meets the requirements of this Part for the subrecipient's directors, officers, employees, agents, and volunteers.

§ 1629.4 What forms of bonds can recipients use?

(a) A recipient may use any form of bond, such as individual, name schedule, position schedule, blanket, or any combination of such forms of bonds, as long as the type or combination of bonds secured adequately protects LSC funds.

(b) A recipient may use similar forms of insurance that essentially fulfill the same purpose as a fidelity bond.

§ 1629.5 What losses must the bond cover?

The bond must provide recovery for loss caused by such acts as fraud, dishonesty, larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, wrongful conversion, willful

misapplication, or any other fraudulent or dishonest act committed by an employee, officer, director, agent, or volunteer.

§ 1629.6 What is the required minimum level of coverage?

(a) A recipient must carry fidelity bond coverage or similar coverage at a minimum level of at least ten percent of its annualized funding level for the previous fiscal year.

(b) If a recipient is a new recipient, the coverage must be at a minimum level of at least ten percent of the initial grant.

(c) Notwithstanding paragraphs (a) and (b) of this section, recipients must not carry coverage under this part at a level less than \$100,000.

§ 1629.7 Can LSC funds be used to cover bonding costs?

Costs of bonding required by this part are allowable if expended consistent with 45 CFR part 1630. Costs of bonding such as rates, deductibles, single loss retention, and premiums, are allowable as an indirect cost if such bonding is in accordance with sound business practice and is reasonable.

PART 1630—COST STANDARDS AND PROCEDURES (Eff. until 12-30-17)

- Sec.
- 1630.1 Purpose.
- 1630.2 Definitions.
- 1630.3 Standards governing allowability of costs under Corporation grants or contracts.
- 1630.4 Burden of proof.
- 1630.5 Costs requiring Corporation prior approval.
- 1630.6 Timetable and basis for granting prior approval.
- 1630.7 Review of questioned costs and appeal of disallowed costs.
- 1630.8 Recovery of disallowed costs and other corrective action.
- 1630.9 Other remedies; effect on other parts.
- 1630.10 Applicability to subgrants.
- 1630.11 Applicability to non-LSC funds.
- 1630.12 Applicability to derivative income.
- 1630.13 Time.
- 1630.14 Membership fees or dues.
- 1630.15 Contributions.
- 1630.16 Tax sheltered annuities, retirement accounts, and pensions.

**This page has the pre-2018 Part 1630.
For the 2018 Part 1630, see pages 496–502.**

§ 1630.1

AUTHORITY: 5 U.S.C. App. 3, 42 U.S.C. 2996e, 2996f, 2996g, 2996h(c)(1); Pub. L. 105-119, 111 Stat. 2440; Pub. L. 104-134, 110 Stat. 1321.

SOURCE: 62 FR 68224, Dec. 31, 1997, unless otherwise noted.

EFFECTIVE DATE NOTE: At 82 FR 37337, Aug. 10, 2017, part 1630 was revised, effective Dec. 31, 2017. For the convenience of the user, the revised text is set forth following this part.

§ 1630.1 Purpose.

This part is intended to provide uniform standards for allowability of costs and to provide a comprehensive, fair, timely, and flexible process for the resolution of questioned costs.

§ 1630.2 Definitions.

(a) *Allowed costs* means a questioned cost that the Corporation, in a management decision, has determined to be eligible for payment from a recipient's Corporation funds.

(b) *Corrective action* means action taken by a recipient that:

- (1) Corrects identified deficiencies;
- (2) Produces recommended improvements; or
- (3) Demonstrates that audit or other findings are either invalid or do not warrant recipient action.

(c) *Derivative income* means income earned by a recipient from Corporation-supported activities during the term of a Corporation grant or contract, and includes, but is not limited to, income from fees for services (including attorney fee awards and reimbursed costs), sales and rentals of real or personal property, and interest earned on Corporation grant or contract advances.

(d) *Disallowed cost* means a questioned cost that the Corporation, in a management decision, has determined should not be charged to a recipient's Corporation funds.

(e) *Final action* means the completion of all actions that Corporation management, in a management decision, has concluded are necessary with respect to the findings and recommendations in an audit or other report. In the event that Corporation management concludes no corrective action is necessary, final action occurs when a management decision has been made.

(f) *Management decision* means the evaluation by Corporation manage-

45 CFR Ch. XVI (10-1-17 Edition)

ment of findings and recommendations in an audit or other report and the recipient's response to the report, and the issuance of a final, written decision by management concerning its response to such findings and recommendations, including any corrective actions which Corporation management has concluded are necessary to address the findings and recommendations.

(g) *Questioned cost* means a cost that a recipient has charged to Corporation funds which Corporation management, the Office of Inspector General, the General Accounting Office, or an independent auditor or other audit organization authorized to conduct an audit of a recipient has questioned because of an audit or other finding that:

- (1) There may have been a violation of a provision of a law, regulation, contract, grant, or other agreement or document governing the use of Corporation funds;
- (2) The cost is not supported by adequate documentation; or
- (3) The cost incurred appears unnecessary or unreasonable and does not reflect the actions a prudent person would take in the circumstances.

(h) *Recipient* as used in this part means any grantee or contractor receiving funds from the Corporation under sections 1006(a)(1) or 1006(a)(3) of the Act.

[62 FR 68225, Dec. 31, 1997; 63 FR 1532, Jan. 9, 1998]

§ 1630.3 Standards governing allowability of costs under Corporation grants or contracts.

(a) *General criteria.* Expenditures by a recipient are allowable under the recipient's grant or contract only if the recipient can demonstrate that the cost was:

- (1) Actually incurred in the performance of the grant or contract and the recipient was liable for payment;
- (2) Reasonable and necessary for the performance of the grant or contract as approved by the Corporation;
- (3) Allocable to the grant or contract;
- (4) In compliance with the Act, applicable appropriations law, Corporation rules, regulations, guidelines, and instructions, the Accounting Guide for

**This page has the pre-2018 Part 1630.
For the 2018 Part 1630, see pages 496–502.**

Legal Services Corporation

§ 1630.3

LSC Recipients, the terms and conditions of the grant or contract, and other applicable law;

(5) Consistent with accounting policies and procedures that apply uniformly to both Corporation-financed and other activities of the recipient;

(6) Accorded consistent treatment over time;

(7) Determined in accordance with generally accepted accounting principles;

(8) Not included as a cost or used to meet cost sharing or matching requirements of any other federally financed program, unless the agency whose funds are being matched determines in writing that Corporation funds may be used for federal matching purposes; and

(9) Adequately and contemporaneously documented in business records accessible during normal business hours to Corporation management, the Office of Inspector General, the General Accounting Office, and independent auditors or other audit organizations authorized to conduct audits of recipients.

(b) *Reasonable costs.* A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the same or similar circumstances prevailing at the time the decision was made to incur the cost. If a questioned cost is disallowed solely on the ground that it is excessive, only the amount that is larger than reasonable shall be disallowed. In determining the reasonableness of a given cost, consideration shall be given to:

(1) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the recipient or the performance of the grant or contract;

(2) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms-length bargaining, Federal and State laws and regulations, and the terms and conditions of the grant or contract;

(3) Whether the recipient acted with prudence under the circumstances, considering its responsibilities to its clients and employees, the public at large, the Corporation, and the Federal government; and

(4) Significant deviations from the established practices of the recipient which may unjustifiably increase the grant or contract costs.

(c) *Allocable costs.* A cost is allocable to a particular cost objective, such as a grant, project, service, or other activity, in accordance with the relative benefits received. Costs may be allocated to Corporation funds either as direct or indirect costs according to the provisions of this section. A cost is allocable to a Corporation grant or contract if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:

(1) Is incurred specifically for the grant or contract;

(2) Benefits both the grant or contract and other work and can be distributed in reasonable proportion to the benefits received; or

(3) Is necessary to the overall operation of the recipient, although a direct relationship to any particular cost objective cannot be shown.

(d) *Direct costs.* Direct costs are those that can be identified specifically with a particular final cost objective, i.e., a particular grant award, project, service, or other direct activity of an organization. Costs identified specifically with grant awards are direct costs of the awards and are to be assigned directly thereto. Direct costs include, but are not limited to, the salaries and wages of recipient staff who are working on cases or matters that are identified with specific grants or contracts. Salary and wages charged directly to Corporation grants and contracts must be supported by personnel activity reports.

(e) *Indirect costs.* Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. Any direct cost of a minor amount may be treated as an indirect cost for reasons of practicality where the accounting treatment for such cost is consistently applied to all final cost objectives. Indirect costs include, but are not limited to, the costs of operating and maintaining facilities, and the costs of general program administration, such as the salaries and wages of program staff whose time is

**This page has the pre-2018 Part 1630.
For the 2018 Part 1630, see pages 496–502.**

§ 1630.4

not directly attributable to a particular grant or contract. Such staff may include, but are not limited to, executive officers and personnel, accounting, secretarial and clerical staff.

(f) *Allocation of indirect costs.* Where a recipient has only one major function, i.e., the delivery of legal services to low-income clients, allocation of indirect costs may be by a simplified allocation method, whereby total allowable indirect costs (net of applicable credits) are divided by an equitable distribution base and distributed to individual grant awards accordingly. The distribution base may be total direct costs, direct salaries and wages, attorney hours, numbers of cases, numbers of employees, or another base which results in an equitable distribution of indirect costs among funding sources.

(g) *Exception for certain indirect costs.* Some funding sources may refuse to allow the allocation of certain indirect costs to an award. In such instances, a recipient may allocate a proportional share of another funding source's share of an indirect cost to Corporation funds, provided that the activity associated with the indirect cost is permissible under the LSC Act and regulations.

(h) *Applicable credits.* Applicable credits are those receipts or reductions of expenditures which operate to offset or reduce expense items that are allocable to grant awards as direct or indirect costs. Applicable credits include, but are not limited to, purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds, and adjustments of overpayments or erroneous charges. To the extent that such credits relate to allowable costs, they shall be credited as a cost reduction or cash refund in the same fund to which the related costs are charged.

(i) *Guidance.* The Circulars of the Office of Management and Budget shall provide guidance for all allowable cost questions arising under this part when relevant policies or criteria therein are not inconsistent with the provisions of the Act, applicable appropriations law, this part, the Accounting Guide for LSC Recipients, Corporation rules, reg-

45 CFR Ch. XVI (10–1–17 Edition)

ulations, guidelines, instructions, and other applicable law.

[62 FR 68225, Dec. 31, 1997; 63 FR 1532, Jan. 9, 1998]

§ 1630.4 Burden of proof.

The recipient shall have the burden of proof under this part.

§ 1630.5 Costs requiring Corporation prior approval.

(a) *Advance understandings.* Under any given grant award, the reasonableness and allocability of certain cost items may be difficult to determine. In order to avoid subsequent disallowance or dispute based on unreasonableness or nonallocability, recipients may seek a written understanding from the Corporation in advance of incurring special or unusual costs. If a recipient elects not to seek an advance understanding from the Corporation, the absence of an advance understanding on any element of a cost does not affect the reasonableness or allocability of the cost.

(b) *Prior approvals.* Without prior written approval of the Corporation, no cost attributable to any of the following may be charged to Corporation funds:

- (1) Pre-award costs and costs incurred after the cessation of funding;
- (2) Purchases and leases of equipment, furniture, or other personal, non-expendable property, if the current purchase price of any individual item of property exceeds \$10,000;
- (3) Purchases of real property; and
- (4) Capital expenditures exceeding \$10,000 to improve real property.

(c) *Duration.* The Corporation's approval or advance understanding shall be valid for one year, or for a greater period of time which the Corporation may specify in its approval or understanding.

§ 1630.6 Timetable and basis for granting prior approval.

(a) The Corporation shall grant prior approval of a cost if the recipient has provided sufficient written information to demonstrate that the cost would be

***This page has the pre-2018 Part 1630.
For the 2018 Part 1630, see pages 496–502.***

Legal Services Corporation

§ 1630.7

consistent with the standards and policies of this part. If the Corporation denies a request for approval, it shall provide to the recipient a written explanation of the grounds for denying the request.

(b) Except as provided in paragraphs (c) and (d) of this section, the Corporation may not assert the absence of prior approval as a basis for disallowing a questioned cost, if the Corporation has not responded to a written request for approval within sixty (60) days of receiving the request.

(c) If additional information is necessary to enable the Corporation to respond to a request for prior approval, the Corporation may make a written request for additional information within forty-five (45) days of receiving the request for approval.

(d) If the Corporation has made a written request for additional information about a cost as provided by paragraph (c) of this section, and if the Corporation has not responded within thirty (30) days of receiving in writing all additional, requested information, the Corporation may not assert the absence of prior approval as a basis for disallowing the cost.

§ 1630.7 Review of questioned costs and appeal of disallowed costs.

(a) When the Office of Inspector General, the General Accounting Office, or an independent auditor or other audit organization authorized to conduct an audit of a recipient has identified and referred a questioned cost to the Corporation, Corporation management shall review the findings of the Office of Inspector General, General Accounting Office, or independent auditor or other authorized audit organization, as well as the recipient's written response to the findings, in order to determine accurately the amount of the questioned cost, the factual circumstances giving rise to the cost, and the legal basis for disallowing the cost. Corporation management may also identify questioned costs in the course of its oversight of recipients.

(b) If Corporation management determines that there is a basis for disallowing a questioned cost, and if not more than five years have elapsed since the recipient incurred the cost, Cor-

poration management shall provide to the recipient written notice of its intent to disallow the cost. The written notice shall state the amount of the cost and the factual and legal basis for disallowing it.

(c) Within thirty (30) days of receiving written notice of the Corporation's intent to disallow the questioned cost, the recipient may respond with written evidence and argument to show that the cost was allowable, or that the Corporation, for equitable, practical, or other reasons, should not recover all or part of the amount, or that the recovery should be made in installments. If the recipient does not respond to the Corporation's written notice, Corporation management shall issue a management decision on the basis of information available to it.

(d) Within sixty (60) days of receiving the recipient's written response to the notice of intent to disallow the questioned cost, Corporation management shall issue a management decision stating whether or not the cost has been disallowed, the reasons for the decision, and the method of appeal as provided in this section.

(1) If Corporation management has determined that the questioned cost should be allowed, and that no corrective action by the recipient is necessary, final action with respect to the questioned cost occurs at the time when the Corporation issues the management decision.

(2) If Corporation management has determined that the questioned cost should be disallowed, the management decision shall also describe the expected recipient action to repay the cost, including the method and schedule for collection of the amount of the cost. The management decision may also require the recipient to make financial adjustments or take other corrective action to prevent a recurrence of the circumstances giving rise to the disallowed cost.

(e) If the amount of a disallowed cost exceeds \$2,500, the recipient may appeal in writing to the Corporation President within thirty (30) days of receiving the Corporation's management decision to disallow the cost. The written appeal should state in detail the reasons why the Corporation should not disallow

**This page has the pre-2018 Part 1630.
For the 2018 Part 1630, see pages 496–502.**

§ 1630.8

part or all of the questioned cost. If the amount of a disallowed cost does not exceed \$2,500, or if the recipient elects not to appeal the disallowance of a cost in excess of \$2,500, the Corporation's management decision shall be final.

(f) Within thirty (30) days of receipt of the recipient's appeal of a disallowed cost in excess of \$2,500, the President shall either adopt, modify, or reverse the Corporation's management decision to disallow the cost. If the President has had prior involvement in the consideration of the disallowed cost, the President shall designate another senior Corporation employee who has not had prior involvement to review the recipient's appeal. The President shall also have discretion, in circumstances where the President has not had prior involvement in the disallowed cost, to designate another senior Corporation employee to review the recipient's appeal, provided that the senior Corporation employee has not had prior involvement in the disallowed cost.

(g) The decision of the President or designee shall be final and shall be based on the written record, consisting of the Corporation's notice of intent to disallow the questioned cost, the recipient's response, the management decision, the recipient's written appeal, any additional response or analysis provided to the President or designee by Corporation staff, and the relevant findings, if any, of the Office of Inspector General, General Accounting Office, or other authorized auditor or audit organization. Upon request, the Corporation shall provide a copy of the written record to the recipient.

§ 1630.8 Recovery of disallowed costs and other corrective action.

(a) The Corporation shall recover any disallowed costs from the recipient within the time limits and conditions set forth in the Corporation's management decision. Recovery of the disallowed costs may be in the form of a reduction in the amount of future grant checks or in the form of direct payment from the recipient to the Corporation.

(b) The Corporation shall ensure that a recipient which has incurred a disallowed cost takes any additional, nec-

45 CFR Ch. XVI (10–1–17 Edition)

essary corrective action within the time limits and conditions set forth in the Corporation's management decision. The recipient shall have taken final action when the recipient has repaid all disallowed costs and has taken all corrective action which the Corporation has stated in its management decision is necessary to prevent the recurrence of circumstances giving rise to a questioned cost.

(c) In the event of an appeal of the Corporation's management decision, the decision of the President or designee shall supersede the Corporation's management decision, and the recipient shall repay any disallowed costs and take necessary corrective action according to the terms and conditions of the decision of the President or designee.

§ 1630.9 Other remedies; effect on other parts.

(a) In cases of serious financial mismanagement, fraud, or defalcation of funds, the Corporation shall refer the matter to the Office of Inspector General, and may take appropriate action pursuant to parts 1606, 1623, 1625, and 1640 of this chapter.

(b) The recovery of a disallowed cost according to the procedures of this part does not constitute a permanent reduction in the annualized funding level of the recipient, nor does it constitute a termination of financial assistance under part 1606, a suspension of funding under part 1623, or a denial of refunding under part 1625.

§ 1630.10 Applicability to subgrants.

When disallowed costs arise from expenditures incurred under a subgrant of Corporation funds, the recipient and the subrecipient will be jointly and severally responsible for the actions of the subrecipient, as provided by 45 CFR part 1627, and will be subject to all remedies available under this part. Both the recipient and the subrecipient shall have access to the review and appeal procedures of this part.

§ 1630.11 Applicability to non-LSC funds.

(a) No costs attributable to a purpose prohibited by the LSC Act, as defined by 45 CFR 1610.2(a), may be charged to

**This page has the pre-2018 Part 1630.
For the 2018 Part 1630, see pages 496–502.**

Legal Services Corporation

Pt. 1630, Nt.

private funds, except for tribal funds used for the specific purposes for which they were provided. No cost attributable to an activity prohibited by or inconsistent with section 504, as defined by 45 CFR 1610.2(b), may be charged to non-LSC funds, except for tribal funds used for the specific purposes for which they were provided.

(b) According to the review and appeal procedures of 45 CFR 1630.7, the Corporation may recover from a recipient's Corporation funds an amount not to exceed the amount improperly charged to non-LSC funds.

§ 1630.12 Applicability to derivative income.

(a) Derivative income resulting from an activity supported in whole or in part with funds provided by the Corporation shall be allocated to the fund in which the recipient's LSC grant is recorded in the same proportion that the amount of Corporation funds expended bears to the total amount expended by the recipient to support the activity.

(b) Derivative income which is allocated to the LSC fund in accordance with paragraph (a) of this section is subject to the requirements of this part, including the requirement of 45 CFR 1630.3(a)(4) that expenditures of such funds be in compliance with the Act, applicable appropriations law, Corporation rules, regulations, guidelines, and instructions, the Accounting Guide for LSC recipients, the terms and conditions of the grant or contract, and other applicable law.

[62 FR 68227, Dec. 31, 1997; 63 FR 1532, Jan. 9, 1998]

§ 1630.13 Time.

(a) *Computation.* Time limits specified in this part shall be computed in accordance with Rules 6(a) and 6(e) of the Federal Rules of Civil Procedure.

(b) *Extensions.* The Corporation may, on a recipient's written request for good cause, grant an extension of time and shall so notify the recipient in writing.

§ 1630.14 Membership fees or dues.

(a) LSC funds may not be used to pay membership fees or dues to any private

or nonprofit organization, whether on behalf of a recipient or an individual.

(b) Paragraph (a) of this section does not apply to the payment of membership fees or dues mandated by a governmental organization to engage in a profession, or to the payment of membership fees or dues from non-LSC funds.

[62 FR 19418, Apr. 21, 1997. Redesignated at 82 FR 10283, Feb. 10, 2017]

§ 1630.15 Contributions.

Any contributions or gifts of Corporation funds to another organization or to an individual are prohibited.

[48 FR 54209, Nov. 30, 1983. Redesignated at 82 FR 10283, Feb. 10, 2017]

§ 1630.16 Tax sheltered annuities, retirement accounts, and pensions.

No provision contained in this part shall be construed to affect any payment by a recipient on behalf of its employees for the purpose of contributing to or funding a tax sheltered annuity, retirement account, or pension fund.

[62 FR 19418, Apr. 21, 1997. Redesignated at 82 FR 10283, Feb. 10, 2017]

EFFECTIVE DATE NOTE: At 82 FR 37337, Aug. 10, 2017, part 1630 was revised, effective Dec. 31, 2017. For the convenience of the user, the revised text is set forth as follows:

PART 1630—COST STANDARDS AND PROCEDURES (Eff. 12-31-17)

Subpart A—General Provisions

- Sec.
- 1630.1 Purpose.
- 1630.2 Definitions.
- 1630.3 Time.
- 1630.4 Burden of proof.

Subpart B—Cost Standards and Prior Approval

- 1630.5 Standards governing allowability of costs under LSC grants or contracts.
- 1630.6 Prior approval.
- 1630.7 Membership fees or dues.
- 1630.8 Contributions.
- 1630.9 Tax-sheltered annuities, retirement accounts, and penalties.
- 1630.10 Recipient policies, procedures, and recordkeeping.

Subpart C—Questioned Cost Proceedings

- 1630.11 Review of questioned costs.
- 1630.12 Appeals to the president.
- 1630.13 Recovery of disallowed costs and other corrective action.

Pt. 1630, Nt.

45 CFR Ch. XVI (10–1–17 Edition)

- 1630.14 Other remedies; effect on other parts.
- 1630.15 Applicability to subgrants.
- 1630.16 Applicability to non-LSC funds.
- 1630.17 Applicability to derivative income.

Subpart D—Closeout Procedures

- 1630.18 Applicability.
- 1630.19 Closeout plan; timing.
- 1630.20 Closeout costs.
- 1630.21 Returning funds to LSC.

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

Subpart A—General Provisions

§ 1630.1 Purpose.

This part is intended to provide uniform standards for allowability of costs and to provide a comprehensive, fair, timely, and flexible process for the resolution of questioned costs.

§ 1630.2 Definitions.

As used in this part:

(a) *Corrective action* means action taken by a recipient that:

- (1) Corrects identified deficiencies;
- (2) Produces recommended improvements;

or

(3) Demonstrates that audit or other findings are either invalid or do not warrant recipient action.

(b) *Derivative income* means income earned by a recipient from LSC-supported activities during the term of an LSC grant or contract, and includes, but is not limited to, income from fees for services (including attorney fee awards and reimbursed costs), sales and rentals of real or personal property, and interest earned on LSC grant or contract advances.

(c) *Disallowed cost* means those charges to an LSC award that LSC determines to be unallowable, in accordance with the applicable statutes, regulations, or terms and conditions of the grant award.

(d) *Final written decision* means either:

(1) The decision issued by the Vice President for Grants Management after reviewing all information provided by a recipient in response to a notice of questioned costs; or

(2) The notice of questioned costs if a recipient does not respond to the notice within 30 days of receipt.

(e) *Membership fees or dues* means payments to an organization on behalf of a program or individual to be a member thereof, or to acquire voting or participatory rights therein. *Membership fees or dues* include, but are not limited to, fees or dues paid to a state supreme court or to a bar organization acting as an administrative arm of the court or in some other governmental capacity if such fees or dues are required for an attorney to practice law in that jurisdiction.

(f) *Questioned cost* means a cost that LSC has questioned because of an audit or other finding that:

(1) There may have been a violation of a provision of a law, regulation, contract, grant, or other agreement or document governing the use of LSC funds;

(2) The cost is not supported by adequate documentation; or

(3) The cost incurred appears unnecessary or unreasonable and does not reflect the actions a prudent person would take in the circumstances.

(g) *Real estate* means land and buildings (including capital improvements), excluding moveable personal property.

(h) *Single purchase, single lease, and single contract* mean a single order or lease of goods or a single contract for services from a single vendor.

§ 1630.3 Time.

(a) *Computation.* In computing any period of time under this part, the time period begins the day following the event and includes the last day of the period, unless the last day is a Saturday, Sunday, or legal holiday observed by the Federal government. In those cases, the time period includes the next business day. When the prescribed time period is seven days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

(b) *Extensions.* A recipient may, within the applicable timeframe for a particular response under this part, submit a written request for an extension of time for good cause to LSC. LSC will respond to the request for extension within seven calendar days from the date of receiving the request. LSC may grant the request for extension and shall notify the recipient of its decision in writing.

§ 1630.4 Burden of proof.

The recipient shall have the burden of proof under this part.

Subpart B—Cost Standards and Prior Approval

§ 1630.5 Standards governing allowability of costs under LSC grants or contracts.

(a) *General criteria.* Expenditures are allowable under an LSC grant or contract only if the recipient can demonstrate that the cost was:

(1) Actually incurred in the performance of the grant or contract and the recipient was liable for payment;

(2) Reasonable and necessary for the performance of the grant or contract as approved by LSC;

(3) Allocable to the grant or contract;

(4) In compliance with the Act, applicable appropriations law, LSC rules, regulations, guidelines, and instructions, the Accounting

Legal Services Corporation

Pt. 1630, Nt.

Guide for LSC Recipients, the terms and conditions of the grant or contract, and other applicable law;

(5) Consistent with accounting policies and procedures that apply uniformly to both LSC-funded and non-LSC-funded activities;

(6) Accorded consistent treatment over time;

(7) Determined in accordance with generally accepted accounting principles; and

(8) Adequately and contemporaneously documented in business records accessible during normal business hours to LSC management, the Office of Inspector General, the General Accounting Office, and independent auditors or other audit organizations authorized to conduct audits of recipients.

(b) *Reasonable costs.* A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the same or similar circumstances prevailing at the time the decision was made to incur the cost. In determining the reasonableness of a given cost, consideration shall be given to:

(1) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the recipient or the performance of the grant or contract;

(2) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms-length bargaining, Federal and State laws and regulations, and the terms and conditions of the grant or contract;

(3) Whether the recipient acted with prudence under the circumstances, considering its responsibilities to its clients and employees, the public at large, the Corporation, and the Federal government; and

(4) Significant deviations from the recipient's established practices, which may unjustifiably increase the grant or contract costs.

(c) *Allocable costs.* (1) A cost is allocable to a particular cost objective, such as a grant, project, service, or other activity, in accordance with the relative benefits received. Costs may be allocated to LSC funds either as direct or indirect costs according to the provisions of this section.

(2) A cost is allocable to an LSC grant or contract if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:

(i) Is incurred specifically for the grant or contract;

(ii) Benefits both the grant or contract and other work and can be distributed in reasonable proportion to the benefits received; or

(iii) Is necessary to the recipient's overall operation, although a direct relationship to any particular cost objective cannot be shown.

(3) Recipients must maintain accounting systems sufficient to demonstrate the proper

allocation of costs to each of their funding sources.

(d) *Direct costs.* Direct costs are those that can be identified specifically with a particular grant award, project, service, or other direct activity of an organization. Costs identified specifically with grant awards are direct costs of the awards and are to be assigned directly thereto. Direct costs include, but are not limited to, the salaries and wages of recipient staff who are working on cases or matters that are identified with specific grants or contracts. Salary and wages charged directly to LSC grants and contracts must be supported by personnel activity reports.

(e) *Indirect costs.* Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. A recipient may treat any direct cost of a minor amount as an indirect cost for reasons of practicality where the accounting treatment for such cost is consistently applied to all final cost objectives. Indirect costs include, but are not limited to, the costs of operating and maintaining facilities, and the costs of general program administration, such as the salaries and wages of program staff whose time is not directly attributable to a particular grant or contract. Such staff may include, but are not limited to, executive officers and personnel, accounting, secretarial and clerical staff.

(f) *Allocation of indirect costs.* Where a recipient has only one major function, *i.e.*, the delivery of legal services to low-income clients, allocation of indirect costs may be by a simplified allocation method, whereby total allowable indirect costs (net of applicable credits) are divided by an equitable distribution base and distributed to individual grant awards accordingly. The distribution base may be total direct costs, direct salaries and wages, attorney hours, numbers of cases, numbers of employees, or another base which results in an equitable distribution of indirect costs among funding sources.

(g) *Exception for certain indirect costs.* Some funding sources may refuse to allow the allocation of certain indirect costs to an award. In such instances, a recipient may allocate a proportional share of another funding source's share of an indirect cost to LSC funds, provided that the activity associated with the indirect cost is permissible under the LSC Act, LSC appropriations statutes, and regulations.

(h) *Applicable credits.* Applicable credits are those receipts or reductions of expenditures which operate to offset or reduce expense items that are allocable to grant awards as direct or indirect costs. Applicable credits include, but are not limited to, purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds, and adjustments of overpayments or erroneous

charges. To the extent that such credits relate to allowable costs, they shall be credited as a cost reduction or cash refund in the same fund to which the related costs are charged.

(i) *Fundraising.* Costs associated with fundraising for the purpose of increasing recipient funds available to carry out the purposes of the LSC grant are allowable and allocable to the LSC grant if they meet the requirements of this section.

(j) *Guidance.* The regulations of the Office of Management and Budget shall provide guidance for all allowable cost questions arising under this part when relevant policies or criteria therein are not inconsistent with the provisions of the Act, applicable appropriations law, this part, the Accounting Guide for LSC Recipients, LSC rules, regulations, guidelines, instructions, and other applicable law.

§ 1630.6 Prior approval.

(a) *Advance understandings.* Under any given grant award, the reasonableness and allocability of certain cost items may be difficult to determine. To avoid subsequent disallowance or dispute based on unreasonableness or nonallocability, a recipient may seek a written understanding from LSC in advance of incurring special or unusual costs. If a recipient elects not to seek an advance understanding from LSC, the absence of an advance understanding on any element of a cost will not affect the reasonableness or allocability of the cost.

(b) *Costs requiring prior approval.* (1) Without LSC's prior written approval, a recipient may not expend \$25,000 or more of LSC funds on any of the following:

- (i) A single purchase or single lease of personal property;
- (ii) A single contract for services;
- (iii) A single combined purchase or lease of personal property and contract for services;
- (iv) A single purchase of real estate; and
- (v) Capital improvements.

(2) Without LSC's prior written approval, a recipient may not expend LSC funds on a purchase of real estate.

(3) For costs apportioned between LSC funds and one or more other funding sources, this requirement applies when the cost allocable to LSC funds is \$25,000 or greater.

(4) The process and substantive requirements for requests for prior approval are in 45 CFR part 1631—Purchasing and Property Management.

(c) *Duration.* LSC's advance understanding or approval shall be valid for one year, or for a greater period of time which LSC may specify in its approval or advance understanding.

§ 1630.7 Membership fees or dues.

(a) LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, whether on behalf of the recipient or an individual.

(b) Paragraph (a) of this section does not apply to the payment of membership fees or dues mandated by a governmental organization to engage in a profession, or to the payment of membership fees or dues from non-LSC funds.

§ 1630.8 Contributions.

Any contributions or gifts of LSC funds to another organization or to an individual are prohibited.

§ 1630.9 Tax-sheltered annuities, retirement accounts, and penalties.

No provision contained in this part shall be construed to affect any payment by a recipient on behalf of its employees for the purpose of contributing to or funding a tax-sheltered annuity, retirement account, or pension fund.

§ 1630.10 Recipient policies, procedures, and recordkeeping.

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

Subpart C—Questioned Cost Proceedings

§ 1630.11 Review of questioned costs.

(a) LSC may identify questioned costs:

(1) When the Office of Inspector General, the General Accounting Office, or an independent auditor or other audit organization authorized to conduct an audit of a recipient has identified and referred a questioned cost to LSC;

(2) In the course of its oversight of recipients; or

(3) As a result of complaints filed with LSC.

(b) If LSC determines that there is a basis for disallowing a questioned cost, LSC must provide the recipient with written notice of its intent to disallow the cost. The notice of questioned costs must state the amount of the cost and the factual and legal basis for disallowing it.

(c) If a questioned cost is disallowed solely because it is excessive, only the amount that is larger than reasonable shall be disallowed.

(d)(1) Within 30 days of receiving the notice of questioned costs, the recipient may respond with written evidence and argument to show that the cost was allowable, or that LSC, for equitable, practical, or other reasons, should not recover all or part of the amount, or that the recovery should be made in installments.

(2) The written notice shall become LSC's final written decision unless:

(i) The recipient responds to LSC's written notice within 30 days;

(ii) The recipient requests an extension of time pursuant to §1630.3(b) within 30 days; or
 (iii) LSC grants an extension of time pursuant to §1630.3(b) within 30 days.

(e) Within 60 days of receiving the recipient's written response to the notice of questioned costs, LSC management must issue a final written decision stating whether the cost has been disallowed and the reasons for the decision.

(f) If LSC has determined that the questioned cost should be disallowed, the final written decision must:

(1) State that the recipient may appeal the decision as provided in §1630.12 and describe the process for seeking an appeal;

(2) Describe how it expects the recipient to repay the cost, including the method and schedule for collection of the amount of the cost;

(3) State whether LSC is requiring the recipient to make financial adjustments or take other corrective action to prevent a recurrence of the circumstances giving rise to the disallowed cost.

§ 1630.12 Appeals to the president.

(a)(1) If the amount of a disallowed cost exceeds \$2,500, the recipient may appeal in writing to LSC's President within 30 days of receiving LSC's final written decision to disallow the cost. The recipient should state in detail the reasons why LSC should not disallow part or all of the questioned cost.

(2) If the recipient did not respond to LSC's notice of questioned costs and the notice became LSC's final written decision pursuant to §1630.11(d)(2), the recipient may not appeal the final written decision.

(b) If the President has had prior involvement in the consideration of the disallowed cost, the President shall designate another senior LSC employee who has not had prior involvement to review the recipient's appeal. In circumstances where the President has not had prior involvement in the disallowed cost proceeding, the President has discretion to designate another senior LSC employee who also has not had prior involvement in the proceeding to review the appeal.

(c) Within 30 days of receiving the recipient's written appeal, the President or designee will adopt, modify, or reverse LSC's final written decision.

(d) The decision of the President or designee shall be final and shall be based on the written record, consisting of LSC's notice of questioned costs, the recipient's response, LSC's final written decision, the recipient's written appeal, any additional response or analysis provided to the President or designee by LSC staff, and the relevant findings, if any, of the Office of Inspector General, General Accounting Office, or other authorized auditor or audit organization. Upon request, LSC shall provide the recipient with a copy of the written record.

§ 1630.13 Recovery of disallowed costs and other corrective action.

(a) LSC will recover any disallowed costs from the recipient within the time limits and conditions set forth in either LSC's final written decision or the President's decision on an appeal. Recovery of the disallowed costs may be in the form of a reduction in the amount of future grant checks or in the form of direct payment from you to LSC.

(b) LSC shall ensure that a recipient who has incurred a disallowed cost takes any additional necessary corrective action within the time limits and conditions set forth in LSC's final written decision or the President's decision.

§ 1630.14 Other remedies; effect on other parts.

(a) In cases of serious financial mismanagement, fraud, or defalcation of funds, LSC shall refer the matter to the Office of Inspector General and may take appropriate action pursuant to parts 1606, 1623, and 1640 of this chapter.

(b) The recovery of a disallowed cost according to the procedures of this part does not constitute a permanent reduction in a recipient's annualized funding level, nor does it constitute a limited reduction of funding or termination of financial assistance under part 1606, or a suspension of funding under part 1623 of this chapter.

§ 1630.15 Applicability to subgrants.

When disallowed costs arise from expenditures incurred under a subgrant of LSC funds, the recipient and the subrecipient will be jointly and severally responsible for the actions of the subrecipient, as provided by 45 CFR part 1627, and will be subject to all remedies available under this part. Both the recipient and the subrecipient shall have access to the review and appeal procedures of this part.

§ 1630.16 Applicability to non-LSC funds.

(a) No costs attributable to a purpose prohibited by the LSC Act, as defined by 45 CFR 1610.2(a), may be charged to private funds, except for tribal funds used for the specific purposes for which they were provided.

(b) No cost attributable to an activity prohibited by or inconsistent with Pub. L. 103-134, title V, sec. 504, as defined by 45 CFR 1610.2(b), may be charged to non-LSC funds, except for tribal funds used for the specific purposes for which they were provided.

(c) LSC may recover from a recipient's LSC funds an amount not to exceed the amount improperly charged to non-LSC funds. A decision to recover under this paragraph is subject to the review and appeal procedures of §§ 1630.11 and 1630.12.

§ 1630.17 Applicability to derivative income.

(a) Derivative income resulting from an activity supported in whole or in part with LSC funds shall be allocated to the fund in which the recipient's LSC grant is recorded in the same proportion that the amount of LSC funds expended bears to the total amount expended by the recipient to support the activity.

(b) Derivative income allocated to the LSC fund in accordance with paragraph (a) of this section is subject to the requirements of this part.

Subpart D—Closeout Procedures**§ 1630.18 Applicability.**

This subpart applies when a recipient of LSC funds:

(a) Ceases to exist as a legal entity, including merging or consolidating functions with another LSC recipient when the other recipient becomes the LSC recipient for the service area; or

(b) Otherwise ceases to receive funds directly from LSC. This may include voluntary termination by the recipient or involuntary termination by LSC of the recipient's LSC grant, and may occur at the end of a grant term or during the grant term.

§ 1630.19 Closeout plan; timing.

(a) A recipient must provide LSC with a plan for the orderly conclusion of the recipient's role and responsibilities. LSC will maintain a list of the required elements for the closeout plan on its Web site. LSC will provide recipients with a link to the list in the grant award documents.

(b)(1) A recipient must notify LSC no less than 60 days prior to any of the above events, except for an involuntary termination of its LSC grant by LSC. The recipient must submit the closeout plan described in paragraph (a) of this section at the same time.

(2) If LSC terminates a recipient's grant, the recipient must submit the closeout plan described in paragraph (a) of this section within 15 days of being notified by LSC that it is terminating the recipient's grant.

§ 1630.20 Closeout costs.

(a) The recipient must submit to LSC a detailed budget and timeline for all closeout procedures described in the closeout plan. LSC must approve the budget, either as presented or after negotiations with the recipient, before the recipient may proceed with implementing the budget, timeline, and plan.

(b) LSC will withhold funds for all closeout expenditures, including costs for the closing audit, all staff and consultant services needed to perform closeout activities, and file storage and retention.

(c) LSC will release any funding installments that the recipient has not received as

of the date it notified LSC of a merger, change in status, or voluntary termination or that LSC notified the recipient of an involuntary termination of funding only upon the recipient's satisfactory completion of all closeout obligations.

§ 1630.21 Returning funds to LSC.

(a) *Excess fund balance.* If the recipient has an LSC fund balance after the termination of funding and closeout, the recipient must return the full amount of the fund balance to LSC at the time it submits the closing audit to LSC.

(b) *Derivative income.* Any attorneys' fees claimed or collected and retained by the recipient after funding ceases that result from LSC-funded work performed during the grant term are derivative income attributable to the LSC grant. Such derivative income must be returned to LSC within 15 days of the date on which the recipient receives the income.

PART 1631—PURCHASING AND PROPERTY MANAGEMENT (Eff. 12-31-17)**Subpart A—General Provisions**

Sec.

- 1631.1 Purpose.
- 1631.2 Definitions.
- 1631.3 Prior approval process.
- 1631.4 Use of funds.
- 1631.5 Recipient policies, procedures, and recordkeeping.

Subpart B—Procurement Policies and Procedures

- 1631.6 Characteristics of procurements.
- 1631.7 Procurement policies and procedures.
- 1631.8 Requests for prior approval.
- 1631.9 Applicability of part 1630 of this chapter.

Subpart C—Personal Property Management

- 1631.10 Use of property in compliance with LSC's statutes and regulations.
- 1631.11 Intellectual property.
- 1631.12 Disposing of personal property purchased with LSC funds.
- 1631.13 Use of derivative income from sale of personal property purchased with LSC funds.

Subpart D—Real Estate Acquisition and Capital Improvements

- 1631.14 Purchasing real estate with LSC funds.
- 1631.15 Capital improvements.

Legal Services Corporation

§ 1631.3

Subpart E—Real Estate Management

- 1631.16 Using real estate purchased with LSC funds.
- 1631.17 Maintenance.
- 1631.18 Insurance.
- 1631.19 Accounting and reporting to LSC.
- 1631.20 Disposing of real estate purchased with LSC funds.
- 1631.21 Retaining income from sale of real estate purchased with LSC funds.

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

[82 FR 37341, Aug. 10, 2017, unless otherwise noted]

EFFECTIVE DATE NOTE: At 82 FR 37341, Aug. 10, 2017, part 1631 was added, effective Dec. 31, 2017.

Subpart A—General Provisions

§ 1631.1 Purpose.

The purpose of this part is to set standards for purchasing, leasing, using, and disposing of LSC-funded personal property and real estate and using LSC funds to contract for services.

§ 1631.2 Definitions.

As used in this part:

(a) *Capital improvement* means spending more than \$25,000 of LSC funds to improve real estate through construction or the addition of fixtures that become an integral part of real estate.

(b) *LSC property interest agreement* means a formal written agreement between the recipient and LSC establishing the terms of LSC's legal interest in real estate purchased with LSC funds.

(c) *Personal property* means property other than real estate.

(d) *Purchase* means buying personal property or real estate or contracting for services with LSC funds.

(e) *Quote* means a quotation or bid from a potential source interested in selling or leasing property or providing services to a recipient.

(f) *Real estate* means land and buildings (including capital improvements), excluding moveable personal property.

(g)(1) *Services* means professional and consultant services rendered by persons who are members of a particular profession or possess a special skill and who are not officers or employees of an LSC recipient. *Services* includes, but is not limited to intangible products such

as accounting, banking, cleaning, consultants, training, expert services, maintenance of equipment, and transportation.

(2) *Services* does not include:

(i) Services provided by recipients to their employees as compensation in addition to regular salaries and wages, including but not limited to employee insurance, pensions, and unemployment benefit plans;

(ii) Insurance, including malpractice insurance provided to staff attorneys and organizational insurance (e.g., directors and officers liability insurance, employment practices liability insurance, and commercial liability insurance);

(iii) Annual audits required by section 509(a) of Public Law 104-134;

(iv) Services necessary to conduct litigation on behalf of clients (e.g., expert witnesses, discovery);

(v) Contracts for services necessary to address a recipient's internal personnel issues, such as labor counsel, investigators, and mediators; and

(vi) Contracts for employees, whether with the employee directly or with a placement agency.

(h) *Source* means a seller, supplier, vendor, or contractor who has agreed:

(1) To sell or lease property to the recipient through a purchase or lease agreement; or

(2) To provide services to the recipient through a contract.

§ 1631.3 Prior approval process.

(a) LSC shall grant prior approval of a cost listed in §1630.6(b) of this chapter if the recipient has provided sufficient written information to demonstrate that the cost would be consistent with the standards and policies of this part. LSC may request additional information if necessary to make a decision on the recipient's request.

(b)(1) For purchases or leases of personal property, contracts for services, and capital improvements, LSC will make a decision to approve or deny a request for prior approval within 30 days of receiving materials LSC deems sufficient to decide. LSC will inform a recipient within 20 days of receiving the initial prior approval request

§ 1631.4

whether LSC needs additional information to make a decision.

(2) For purchases of real estate, LSC will make a decision within 60 days of receiving materials LSC deems sufficient to decide. LSC will inform a recipient within 20 days of receiving the initial prior approval request whether LSC needs additional information to make a decision.

(3) If LSC cannot make a decision whether to approve the request within the allotted time, it will provide the requester with a date by which it expects to make a decision.

(c) If LSC denies a request for prior approval, LSC shall provide the recipient with a written explanation of the grounds for denying the request.

(d) *Exigent circumstances.* (1) A recipient may use more than \$25,000 of LSC funds to purchase personal property or award a contract for services without seeking LSC's prior approval if the purchase or contract is necessary;

(i) To avoid imminent harm to the recipient's personnel, physical facilities, or systems;

(ii) To remediate or mitigate damage to the recipient's personnel, physical facilities or systems;

(iii) To avoid disruption to the recipient's client-service delivery system (e.g., an event that causes a recipient's telecommunications system to cease functioning); or

(iv) To respond to a natural disaster (e.g., a flood washes out roads leading to the recipient's offices such that the recipient must contract for services that will enable it to contact its clients).

(2) The recipient must provide LSC with a description of the exigent circumstances and the information described in § 1631.8(b) within 30 days after the circumstances necessitating the purchase or contract have ended.

§ 1631.4 Use of funds.

When LSC receives funds from a disposition of property under this section, LSC will use those funds to make emergency and other special grants to recipients. LSC generally will make such grants to the same service area as the returned funds originally supported.

45 CFR Ch. XVI (10–1–17 Edition)

§ 1631.5 Recipient policies, procedures, and recordkeeping.

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

Subpart B—Procurement Policies and Procedures

§ 1631.6 Characteristics of procurements.

(a) Characteristics indicative of a procurement relationship between a recipient and another entity are when the other entity:

(1) Provides the goods and services within its normal business operations;

(2) Provides similar goods or services to many different purchasers;

(3) Normally operates in a competitive environment;

(4) Provides goods or services that are ancillary to the operation of the LSC grant; and

(5) Is not subject to LSC's compliance requirements as a result of the agreement, though similar requirements may apply for other reasons.

(b) In determining whether an agreement between a recipient and another entity constitutes a contract under this part or a subgrant under part 1627 of this chapter, the substance of the relationship is more important than the form of the agreement. All the characteristics above may not be present in all cases, and a recipient must use judgment in classifying each agreement as a subgrant or a contract.

§ 1631.7 Procurement policies and procedures.

Recipients must have written procurement policies and procedures. These policies must:

(a) Identify competition thresholds that establish the basis (for example, price, risk level, or type of purchase) for the level of competition required at each threshold (for example, certification that a purchase reflects the best value to the recipient; a price comparison for alternatives that the recipient considered; or requests for information, quotes, or proposals);

Legal Services Corporation

§ 1631.12

(b) Establish the grounds for non-competitive purchases;

(c) Establish the level of documentation necessary to justify procurements. The level of documentation needed may be proportional to the nature of the purchase or tied to competition thresholds;

(d) Establish internal controls that, at a minimum, provide for segregation of duties in the procurement process, identify which employees, officers, or directors who have authority to make purchases for the recipient, and identify procedures for approving purchases;

(e) Establish procedures to ensure quality and cost control in purchasing, including procedures for selecting sources, fair and objective criteria for selecting sources; and

(f) Establish procedures for identifying and preventing conflicts of interest in the purchasing process.

§ 1631.8 Requests for prior approval.

(a) As required by 45 CFR 1630.6 and 1631.3, a recipient using more than \$25,000 of LSC funds to purchase or lease personal property or contract for services must request and receive LSC's prior approval.

(b) A request for prior approval must include:

(1) A statement of need;

(2) A copy of the recipient's procurement policy; and

(3) Documentation showing that the recipient followed its procurement policies and procedures in soliciting, reviewing, and approving the purchase, lease, or contract for services.

§ 1631.9 Applicability of part 1630 of this chapter.

All purchases and leases of personal property and contracts for services made with LSC funds must comply with the provisions of 45 CFR part 1630 (Cost Standards and Procedures).

Subpart C—Personal Property Management

§ 1631.10 Use of property in compliance with LSC's statutes and regulations.

(a) A recipient may use personal property purchased or leased, in whole

or in part, with LSC funds primarily to deliver legal services to eligible clients under the requirements of the LSC Act, applicable appropriations acts, and LSC regulations.

(b) A recipient may use personal property purchased or leased, in whole or in part, with LSC funds for the performance of an LSC grant or contract for other activities, if such other activities do not interfere with the performance of the LSC grant or contract.

(c) If a recipient uses personal property purchased or leased, in whole or in part, with LSC funds to provide services to an organization that engages in activity restricted by the LSC Act, LSC regulations, or other applicable law, the recipient must charge the organization a fee no less than that which private nonprofit organizations in the same area charge for the same services under similar conditions.

§ 1631.11 Intellectual property.

(a) A recipient owns all products, technologies, and software developed or improved using LSC funds, subject to any agreement the recipient may have with a third-party vendor. LSC retains a royalty-free, nonexclusive, and irrevocable license to use, reproduce, distribute, publish, and prepare derivative works of any LSC-funded products, technologies, and software, including making them available to other LSC grantees or the broader access to justice community and partners.

(b) A recipient must have a written contract with vendors who develop or improve LSC-funded products, technologies, and software. The contract must include a provision disclosing LSC's royalty-free, nonexclusive, and irrevocable license and prohibiting third-party vendors from denying its existence, challenging its legality, or interfering with LSC's full exercise of it.

§ 1631.12 Disposing of personal property purchased with LSC funds.

(a) *Disposal by LSC recipients.* During the term of an LSC grant or contract, a recipient may dispose of personal property purchased with LSC funds by:

(1) Trading in the personal property when it acquires replacement property;

§ 1631.13

(2) Selling or otherwise disposing of the personal property with no further obligation to LSC when the fair market value of the personal property is negligible;

(3) Where the current fair market value of the personal property is \$15,000 or less, selling the property at a reasonable negotiated price, without advertising;

(4) Where the current fair market value of the personal property exceeds \$15,000, advertising the property for 14 days and selling the property after receiving reasonable offers. If the recipient receives no reasonable offers after advertising the property for 14 days, it may sell the property at a reasonable negotiated price;

(5) Transferring the property to another recipient of LSC funds; or

(6) With the approval of LSC, transferring the personal property to another nonprofit organization serving the poor in the same service area.

(b) *Disposal when no longer a recipient.* When a recipient stops receiving LSC funds, it must obtain LSC's approval to dispose of personal property purchased with LSC funds in one of the following ways:

(1) Transferring the property to another recipient of LSC funds, in which case the former recipient will be entitled to compensation in the amount of the percentage of the property's current fair market value that is equal to the percentage of the property's purchase cost borne by non-LSC funds;

(2) Transferring the property to another nonprofit organization serving the poor in the same service area, in which case LSC will be entitled to compensation from the recipient for the percentage of the property's current fair market value that is equal to the percentage of the property's purchase cost borne by LSC funds;

(3) Selling the property and retaining the proceeds from the sale after compensating LSC for the percentage of the property's current fair market value that is equal to the percentage of the property's purchase cost borne by LSC funds; or

(4) Retaining the property, in which case LSC will be entitled to compensation from the recipient for the percentage of the property's current fair mar-

45 CFR Ch. XVI (10–1–17 Edition)

ket value that is equal to that percentage of the property's purchase cost borne by LSC funds.

(c) *Disposal upon merger with or succession by another LSC recipient.* When a recipient stops receiving LSC funds because it merged with or is succeeded by another grantee, the recipient may transfer the property to the new recipient, if the two entities execute an LSC-approved successor in interest agreement that requires the new recipient to use the property primarily to provide legal services to eligible clients under the requirements of the LSC Act, applicable appropriations acts, and LSC regulations.

(d) *Prohibition.* A recipient may not dispose of personal property by sale, donation, or other transfer of the property to its board members or employees.

§ 1631.13 Use of derivative income from sale of personal property purchased with LSC funds.

(a) During the term of an LSC grant or contract, a recipient may retain and use income from any sale of personal property purchased with LSC funds according to 45 CFR 1630.17 (Cost Standards and Procedures: Applicability to derivative income) and 45 CFR 1628.3 (Recipient Fund Balances: Policy).

(b) The recipient must account for income earned from the sale, rent, or lease of personal property purchased with LSC funds according to the requirements of 45 CFR 1630.17.

Subpart D—Real Estate Acquisition and Capital Improvements

§ 1631.14 Purchasing real estate with LSC funds.

(a) *Pre-purchase planning requirements.* (1) Before purchasing real estate with LSC funds, a recipient must conduct an informal market survey and evaluate at least three potential equivalent properties.

(2) When a recipient evaluates potential properties, it must consider:

(i) The average annual cost of the purchase, including the costs of a down payment, interest and principal payments on a mortgage financing the purchase; closing costs; renovation

Legal Services Corporation

§ 1631.15

costs; and the costs of utilities, maintenance, and taxes, if any;

(ii) The estimated total costs of buying and using the property throughout the mortgage term compared to the estimated total costs of leasing and using a similar property over the same period of time;

(iii) The property's quality; and

(iv) Whether the property is conducive to delivering legal services (e.g. property is accessible to the client population (ADA compliant) and near public transportation, courts, and other government or social services agencies).

(3) If a recipient cannot evaluate three potential properties, it must be able to explain why such evaluation was not possible.

(b) *Prior approval.* Before a recipient may purchase real estate with LSC funds, LSC must approve the purchase as required by 45 CFR 1630.6 and 1631.3. The request for approval must be in writing and include:

(1) A statement of need, including:

(i) The information obtained and considered in paragraph (a) of this section;

(ii) Trends in funding and program staffing levels in relation to space needs;

(iii) Why the recipient needs to purchase real estate; and

(iv) Why purchasing real estate is reasonable and necessary to performing the LSC grant.

(2) A brief analysis comparing:

(i) The estimated average annual cost of the purchase including the costs of a down payment, interest and principal payments on a mortgage financing the purchase; closing costs; renovation costs; and the costs of utilities, maintenance, and taxes, if any; and

(ii) The estimated average annual cost of leasing or purchasing similar property over the same period of time;

(3) Anticipated financing of the purchase, including:

(i) The estimated total acquisition costs, including capital improvements, taxes, recordation fees, maintenance costs, insurance costs, and closing costs;

(ii) The anticipated breakdown of LSC funds and non-LSC funds to be applied toward the total costs of the purchase;

(iii) The monthly amount of principal and interest payments on debt secured to finance the purchase, if any;

(4) A current, independent appraisal sufficient to secure a mortgage;

(5) A comparison of available loan terms considered by the recipient before selecting the chosen financing method;

(6) Board approval of the purchase in either a board resolution or board minutes, including Board approvals that are contingent on LSC's approval;

(7) Whether the property will replace or supplement existing program offices;

(8) A statement that the property

(i) Currently complies with the Americans with Disabilities Act (ADA) or applicable state law, whichever is stricter, and 45 CFR 1624.5; or

(ii) Will comply with the ADA, any applicable state law, and 45 CFR 1624.5 upon completion of any necessary capital improvements. Such improvements must be completed within 60 days of the date of purchase; and

(9) A copy of a purchase agreement, contract, or other document containing a description of the property and the terms of the purchase.

(c) *Property interest agreement.* Once LSC approves the purchase, the recipient must enter a written property interest agreement with LSC. The agreement must include:

(1) The recipient's agreement to use the property consistent with §1631.15;

(2) The recipient's agreement to record, under appropriate state law, LSC's interest in the property;

(3) The recipient's agreement not to encumber the property without prior LSC approval; and

(4) The recipient's agreement not to dispose of the property without prior LSC approval.

§ 1631.15 Capital improvements.

(a) As required by 45 CFR 1630.6 and 1631.3, a recipient must obtain LSC's prior written approval before using more than \$25,000 LSC funds to make capital improvements to real estate.

(b) The written request must include:

(1) A statement of need;

(2) A brief description of the nature of the work to be done, the name of the sources performing the work, and the

§ 1631.16

total expected cost of the improvement; and

(3) Documentation showing that the recipient followed its procurement policies and procedures in competing, selecting, and awarding contracts to perform the work.

(c) A recipient must maintain supporting documentation to accurately identify and account for any use of LSC funds to make capital improvements to real estate owned by the recipient.

Subpart E—Real Estate Management

§ 1631.16 Using real estate purchased with LSC funds.

(a) Recipients must use real estate purchased or leased in whole or in part with LSC funds to deliver legal assistance to eligible clients consistent with the requirements of the LSC Act, applicable appropriations acts, other applicable Federal law, and LSC's regulations. If a recipient does not need to use some or all such real estate to deliver legal assistance to eligible clients, it may use the space for other activities as described in paragraphs (b) and (c) of this section.

(b) A recipient may use real estate purchased or leased, in whole or part, with LSC funds for the performance of an LSC grant or contract for other activities, if they do not interfere with the performance of the LSC grant or contract.

(c) If a recipient uses real estate purchased or leased, in whole or part, with LSC funds to provide space to an organization that engages in activity restricted by the LSC Act, applicable appropriations acts, LSC regulations, or other applicable law, the recipient must charge the organization rent no less than that which private nonprofit organizations in the same area charge for the same amount of space under similar conditions.

§ 1631.17 Maintenance.

A recipient must maintain real estate acquired with LSC funds:

(a) In an efficient operating condition; and

45 CFR Ch. XVI (10–1–17 Edition)

(b) In compliance with state and local government property standards and building codes.

§ 1631.18 Insurance.

At the time of purchase, a recipient must obtain insurance coverage for real estate purchased with LSC funds which is not lower in value than coverage it has obtained for other real estate it owns and which provides at least the following coverage:

(a) Title insurance that:

(1) Insures the fee interest in the property for an amount not less than the full appraised value as approved by LSC, or the amount of the purchase price, whichever is greater; and

(2) Contains an endorsement identifying LSC as a loss payee to be reimbursed if the title fails.

(3) If no endorsement naming LSC as loss payee is made, the recipient must pay LSC the title insurance proceeds it receives in the event of a failure.

(b) A physical destruction insurance policy, including flood insurance where appropriate, which insures the full replacement value of the facility from risk of partial and total physical destructions. The recipient must maintain this policy for the period of time that the recipient owns the real estate.

§ 1631.19 Accounting and reporting to LSC.

A recipient must maintain an accounting of the amount of LSC funds relating to the purchase or maintenance of real estate purchased with LSC funds. The accounting must include the amount of LSC funds used to pay for acquisition costs, financing, and capital improvements. The recipient must provide the accounting for each year to LSC no later than April 30 of the following year or in its annual audited financial statements submitted to LSC.

§ 1631.20 Disposing of real estate purchased with LSC funds.

(a) *Disposal by LSC recipients.* During the term of an LSC grant or contract, a recipient must seek LSC's prior written approval to dispose of real estate purchased with LSC funds by:

(1) Selling the property after having advertised for and received offers; or

Legal Services Corporation

§ 1632.1

(2) Transferring the property to another recipient of LSC funds, in which case the recipient may be compensated by the recipient receiving the property for the percentage of the property's current fair market value that is equal to the percentage of the costs of the original acquisition and costs of any capital improvements borne by non-LSC funds.

(b) *Disposal after a recipient no longer receives LSC funding.* When a recipient who owns real estate purchased with LSC funds stops receiving LSC funds, it must seek LSC's prior written approval to dispose of the property in one of the following ways:

(1) Transfer the property title to another grantee of LSC funds, in which case the recipient may be compensated the percentage of the property's current fair market value that is equal to the percentage of the costs of the original acquisition and costs of any capital improvements by non-LSC funds;

(2) Buyout LSC's interest in the property (*i.e.*, pay LSC the percentage of the property's current fair market value proportional to its percent interest in the property); or

(3) Sell the property to a third party and pay LSC a share of the sale proceeds proportional to its interest in the property, after deducting actual and reasonable closing costs, if any.

(4) When a recipient stops receiving LSC funds because it merged with or is succeeded by another recipient, it may transfer the property to the new recipient. The two entities must execute an LSC-approved successor in interest agreement that requires the transferee to use the property primarily to provide legal services to eligible clients under the requirements of the LSC Act, applicable appropriations acts, and LSC regulations.

(c) *Prior approval process.* No later than 60 days before a recipient or former recipient proposes to dispose of real estate purchased with LSC funds, the recipient or former recipients must submit a written request for prior approval to dispose of the property to LSC. The request must include:

(1) The proposed method of disposition and an explanation of why the proposed method is in the best interests of LSC and the recipient;

(2) Documentation showing the fair market value of the property at the time of transfer or sale, including, but not limited to, an independent appraisal of the property and competing bona fide offers to purchase the property;

(3) A description of the recipient's process for advertising the property for sale and receiving offers;

(4) An accounting of all LSC funds used in the acquisition and any capital improvements of the property. The accounting must include the amount of LSC funds used to pay for acquisition costs, financing, and capital improvements; and

(5) Information on the proposed transferee or buyer of the property and a document evidencing the terms of transfer or sale.

§ 1631.21 Retaining income from sale of real estate purchased with LSC funds.

(a) During the term of an LSC grant or contract, a recipient may retain and use income from any sale of real estate purchased with LSC funds according to 45 CFR 1630.17 (Cost Standards and Procedures: Applicability to derivative income.) and 45 CFR 1628.3 (Recipient Fund Balances: Policy.).

(b) The recipient must account for income earned from the sale, rent, or lease of real or personal property purchased with LSC funds according to the requirements of 45 CFR 1630.17.

PART 1632—REDISTRICTING

Sec.

1632.1 Purpose.

1632.2 Definitions.

1632.3 Prohibition.

1632.4 Recipient policies.

AUTHORITY: 42 U.S.C. 2996e(b)(1)(A); 2996f(a)(2)(C); 2996f(a)(3); 2996(g)(e); 110 Stat. 3009; 110 Stat. 1321(1996).

SOURCE: 61 FR 63756, Dec. 2, 1996, unless otherwise noted.

§ 1632.1 Purpose.

This part is intended to ensure that recipients do not engage in redistricting activities.

§ 1632.2

45 CFR Ch. XVI (10–1–17 Edition)

§ 1632.2 Definitions.

(a) *Advocating or opposing any plan* means any effort, whether by request or otherwise, even if of a neutral nature, to revise a legislative, judicial, or elective district at any level of government.

(b) *Recipient* means any grantee or contractor receiving funds made available by the Corporation under sections 1006(a)(1) or 1006(a)(3) of the LSC Act. For the purposes of this part, *recipient* includes subrecipient and employees of recipients and subrecipients.

(c) *Redistricting* means any effort, directly or indirectly, that is intended to or would have the effect of altering, revising, or reapportioning a legislative, judicial, or elective district at any level of government, including influencing the timing or manner of the taking of a census.

§ 1632.3 Prohibition.

(a) Neither the Corporation nor any recipient shall make available any funds, personnel, or equipment for use in advocating or opposing any plan or proposal, or representing any party, or participating in any other way in litigation, related to redistricting.

(b) This part does not prohibit any litigation brought by a recipient under the Voting Rights Act of 1965, as amended, 42 U.S.C. 1971 *et seq.*, provided such litigation does not involve redistricting.

§ 1632.4 Recipient policies.

Each recipient shall adopt written policies to implement the requirements of this part.

PART 1633—RESTRICTION ON REPRESENTATION IN CERTAIN EVICTION PROCEEDINGS

Sec.	
1633.1	Purpose.
1633.2	Definitions.
1633.3	Prohibition.
1633.4	Recipient policies, procedures and recordkeeping.

AUTHORITY: 42 U.S.C. 2996e(a), 2996e(b)(1)(A), 2996f(a)(2)(C), 2996f(a)(3), 2996g(e); 110 Stat. 3009; 110 Stat. 1321 (1996).

SOURCE: 61 FR 63758, Dec. 2, 1996, unless otherwise noted.

§ 1633.1 Purpose.

This part is designed to ensure that in certain public housing eviction proceedings recipients refrain from defending persons charged with or convicted of illegal drug activities.

§ 1633.2 Definitions.

(a) *Controlled substance* has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802);

(b) *Public housing project* and *public housing agency* have the meanings given those terms in section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a);

(c) *Charged with* means that a person is subject to a pending criminal proceeding instituted by a governmental entity with authority to initiate such proceeding against that person for engaging in illegal drug activity.

§ 1633.3 Prohibition.

Recipients are prohibited from defending any person in a proceeding to evict that person from a public housing project if:

(a) The person has been charged with or has been convicted of the illegal sale, distribution, or manufacture of a controlled substance, or possession of a controlled substance with the intent to sell or distribute; and

(b) The eviction proceeding is brought by a public housing agency on the basis that the illegal drug activity for which the person has been charged or for which the person has been convicted threatens the health or safety of other tenants residing in the public housing project or employees of the public housing agency.

§ 1633.4 Recipient policies, procedures and recordkeeping.

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

PART 1634—COMPETITIVE BIDDING FOR GRANTS AND CONTRACTS

- Sec.
- 1634.1 Purpose.
- 1634.2 Definitions.
- 1634.3 Competition for grants and contracts.
- 1634.4 Announcement of competition.
- 1634.5 Identification of qualified applicants for grants and contracts.
- 1634.6 Notice of intent to compete.
- 1634.7 Application process.
- 1634.8 Selection process.
- 1634.9 Selection criteria.
- 1634.10 Transition provisions.
- 1634.11 Replacement of recipient that does not complete grant term.
- 1634.12 Emergency procedures and waivers.

AUTHORITY: 42 U.S.C. 2996e(a)(1)(A); 2996f(a)(3).

SOURCE: 61 FR 14258, Apr. 1, 1996, unless otherwise noted.

§ 1634.1 Purpose.

This part is designed to improve the delivery of legal assistance to eligible clients through the use of a competitive system to award grants and contracts for the delivery of legal services. The purposes of such a competitive system are to:

- (a) Encourage the effective and economical delivery of high quality legal services to eligible clients that is consistent with the Corporation's Performance Criteria and the American Bar Association's Standards for Providers of Civil Legal Services to the Poor through an integrated system of legal services providers;
- (b) Provide opportunities for qualified attorneys and entities to compete for grants and contracts to deliver high quality legal services to eligible clients;
- (c) Encourage ongoing improvement of performance by recipients in providing high quality legal services to eligible clients;
- (d) Preserve local control over resource allocation and program priorities; and
- (e) Minimize disruptions in the delivery of legal services to eligible clients within a service area during a transition to a new provider.

§ 1634.2 Definitions.

- (a) *Qualified applicants* are those persons, groups or entities described in

section 1634.5(a) of this part who are eligible to submit notices of intent to compete and applications to participate in a competitive bidding process as described in this part.

(b) *Review panel* means a group of individuals who are not Corporation staff but who are engaged by the Corporation to review applications and make recommendations regarding awards of grants or contracts for the delivery of legal assistance to eligible clients. A majority of review panel members shall be lawyers who are supportive of the purposes of the LSC Act and experienced in and knowledgeable about the delivery of legal assistance to low-income persons, and eligible clients or representatives of low-income community groups. The remaining members of the review panel shall be persons who are supportive of the purposes of the LSC Act and have an interest in and knowledge of the delivery of quality legal services to the poor. No person may serve on a review panel for an applicant with whom the person has a financial interest or ethical conflict; nor may the person have been a board member of or employed by that applicant in the past five years.

(c) *Service area* is the area defined by the Corporation to be served by grants or contracts to be awarded on the basis of a competitive bidding process. A service area is defined geographically and may consist of all or part of the area served by a current recipient, or it may include an area larger than the area served by a current recipient.

(d) *Subpopulation of eligible clients* includes Native Americans and migrant farm workers and may include other groups of eligible clients that, because they have special legal problems or face special difficulties of access to legal services, might better be addressed by a separate delivery system to serve that client group effectively.

§ 1634.3 Competition for grants and contracts.

- (a) After the effective date of this part, all grants and contracts for legal assistance awarded by the Corporation under Section 1006(a)(1)(A) of the LSC Act shall be subject to the competitive bidding process described in this part. No grant or contract for the delivery of

§ 1634.4

45 CFR Ch. XVI (10–1–17 Edition)

legal assistance shall be awarded by the Corporation for any period after the effective date of this part, unless the recipient of that grant has been selected on the basis of the competitive bidding process described in this part.

(b) The Corporation shall determine the service areas to be covered by grants or contracts and shall determine whether the population to be served will consist of all eligible clients within the service area or a specific subpopulation of eligible clients within one or more service areas.

(c) The use of the competitive bidding process to award grant(s) or contract(s) shall not constitute a termination or denial of refunding of financial assistance to a current recipient pursuant to parts 1606 and 1625 of this chapter.

(d) Wherever possible, the Corporation shall award no more than one grant or contract to provide legal assistance to eligible clients or a subpopulation of eligible clients within a service area. The Corporation may award more than one grant or contract to provide legal assistance to eligible clients or a subpopulation of eligible clients within a service area only when the Corporation determines that it is necessary to award more than one such grant or contract in order to ensure that all eligible clients within the service area will have access to a full range of high quality legal services in accordance with the LSC Act or other applicable law.

(e) In no event may the Corporation award a grant or contract for a term longer than five years. The amount of funding provided annually under each such grant or contract is subject to changes in congressional appropriations or restrictions on the use of those funds by the Corporation. A reduction in a recipient's annual funding required as a result of a change in the law or a reduction in funding appropriated to the Corporation shall not be considered a termination or denial of refunding under parts 1606 or 1625 of this chapter.

§ 1634.4 Announcement of competition.

(a) The Corporation shall give public notice that it intends to award a grant or contract for a service area on the basis of a competitive bidding process,

shall take appropriate steps to announce the availability of such a grant or contract in the periodicals of State and local bar associations, and shall publish a notice of the Request For Proposals (RFP) in at least one daily newspaper of general circulation in the area to be served under the grant or contract. In addition, the Corporation shall notify current recipients, other bar associations, and other interested groups within the service area of the availability of the grant or contract and shall conduct such other outreach as the Corporation determines to be appropriate to ensure that interested parties are given an opportunity to participate in the competitive bidding process.

(b) The Corporation shall issue an RFP which shall include information regarding: who may apply, application procedures, the selection process, selection criteria, the service areas that will be the subject of the competitive bidding process, the amount of funding available for the service area, if known, applicable timetables and deadlines, and the LSC Act, regulations, guidelines and instructions and any other applicable federal law. The RFP may also include any other information that the Corporation determines to be appropriate.

(c) The Corporation shall make a copy of the RFP available to any person, group or entity that requests a copy in accordance with procedures established by the Corporation.

§ 1634.5 Identification of qualified applicants for grants and contracts.

(a) The following persons, groups and entities are qualified applicants who may submit a notice of intent to compete and an application to participate in the competitive bidding process:

- (1) Current recipients;
- (2) Other non-profit organizations that have as a purpose the furnishing of legal assistance to eligible clients;
- (3) Private attorneys, groups of attorneys or law firms (except that no private law firm that expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public may be awarded a grant or contract under the LSC Act);

Legal Services Corporation

§ 1634.8

(4) State or local governments;

(5) Substate regional planning and coordination agencies which are composed of substate areas and whose governing boards are controlled by locally elected officials.

(b) All persons, groups and entities listed in paragraph (a) of this section must have a governing or policy body consistent with the requirements of part 1607 of this chapter or other law that sets out requirements for recipients' governing bodies, unless such governing body requirements are inconsistent with applicable law.

(c) Applications may be submitted jointly by more than one qualified applicant so long as the application delineates the respective roles and responsibilities of each qualified applicant.

§ 1634.6 Notice of intent to compete.

(a) In order to participate in the competitive bidding process, an applicant must submit a notice of intent to compete on or before the date designated by the Corporation in the RFP. The Corporation may extend the date if necessary to take account of special circumstances or to permit the Corporation to solicit additional notices of intent to compete.

(b) At the time of the filing of the notice of intent to compete, each applicant must provide the Corporation with the following information as well as any additional information that the Corporation determines is appropriate:

(1) Names and resumes of principals and key staff;

(2) Names and resumes of current and proposed governing board or policy body members and their appointing organizations;

(3) Initial description of area proposed to be served by the applicant and the services to be provided.

§ 1634.7 Application process.

(a) The Corporation shall set a date for receipt of applications and shall announce the date in the RFP. The date shall afford applicants adequate opportunity, after filing the notice of intent to compete, to complete the application process. The Corporation may extend the application date if necessary

to take account of special circumstances.

(b) The application shall be submitted in a form to be determined by the Corporation.

(c) A completed application shall include all of the information requested by the RFP. It may also include any additional information needed to fully address the selection criteria, and any other information requested by the Corporation. Incomplete applications will not be considered for awards by the Corporation.

(d) The Corporation shall establish a procedure to provide notification to applicants of receipt of the application.

§ 1634.8 Selection process.

(a) After receipt of all applications for a particular service area, Corporation staff shall:

(1) Review each application and any additional information that the Corporation has regarding each applicant, including for any applicant that is or includes a current or former recipient, past monitoring and compliance reports, performance evaluations and other pertinent records for the past six years;

(2) Request from an applicant and review any additional information that the Corporation determines is appropriate to evaluate the application fully;

(3) Conduct one or more on-site visits to an applicant if the Corporation determines that such visits are appropriate to evaluate the application fully;

(4) Summarize in writing information regarding the applicant that is not contained in the application if appropriate for the review process; and

(5) Convene a review panel unless there is only one applicant for a particular service area and the Corporation determines that use of a review panel is not appropriate. The review panel shall:

(i) Review the applications and the summaries prepared by the Corporation staff. The review panel may request other information identified by the Corporation as necessary to evaluate the applications fully; and

(ii) Make a written recommendation to the Corporation regarding the award

§ 1634.9

45 CFR Ch. XVI (10–1–17 Edition)

of grants or contracts from the Corporation for a particular service area.

(6) After considering the recommendation made by the review panel, if a review panel was convened, make a staff recommendation to the President. The staff recommendation shall include the recommendation of the review panel and, if the staff recommendation differs from that of the review panel, an explanation of the basis for the difference in the recommendations.

(b) After reviewing the written recommendations, the President shall select the applicants to be awarded grants or contracts from the Corporation and the Corporation shall notify each applicant in writing of the President's decision regarding each applicant's application.

(c) In the event that there are no applicants for a service area or that the Corporation determines that no applicant meets the criteria and therefore determines not to award a grant or contract for a particular service area, the Corporation shall take all practical steps to ensure the continued provision of legal assistance in that service area. The Corporation shall have discretion to determine how legal assistance is to be provided to the service area, including, but not limited to, enlarging the service area of a neighboring recipient, putting a current recipient on month-to-month funding or entering into a short term, interim grant or contract with another qualified provider for the provision of legal assistance in the service area until the completion of a competitive bidding process within a reasonable period of time.

§ 1634.9 Selection criteria.

(a) The criteria to be used to select among qualified applicants shall include the following:

(1) Whether the applicant has a full understanding of the basic legal needs of the eligible clients in the area to be served;

(2) The quality, feasibility and cost-effectiveness of the applicant's legal services delivery and delivery approach in relation to the Corporation's Performance Criteria and the American Bar Association's Standards for Providers of Civil Legal Services to the

Poor, as evidenced by, among other things, the applicant's experience with the delivery of the type of legal assistance contemplated under the proposal;

(3) Whether the applicant's governing or policy body meets or will meet all applicable requirements of the LSC Act, regulations, guidelines, instructions and any other requirements of law in accordance with a time schedule set out by the Corporation;

(4) The applicant's capacity to comply with all other applicable provisions of the LSC Act, rules, regulations, guidelines and instructions, as well as with ethical requirements and any other requirements imposed by law. Evidence of the applicant's capacity to comply with this criterion may include, among other things, the applicant's compliance experience with the Corporation or other funding sources or regulatory agencies, including but not limited to Federal or State agencies, bar associations or foundations, courts, IOLTA programs, and private foundations;

(5) The reputations of the applicant's principals and key staff;

(6) The applicant's knowledge of the various components of the legal services delivery system in the State and its willingness to coordinate with the various components as appropriate to assure the availability of a full range of legal assistance, including:

(i) its capacity to cooperate with State and local bar associations, private attorneys and pro bono programs to increase the involvement of private attorneys in the delivery of legal assistance and the availability of pro bono legal services to eligible clients; and

(ii) its knowledge of and willingness to cooperate with other legal services providers, community groups, public interest organizations and human services providers in the service area;

(7) The applicant's capacity to develop and increase non-Corporation resources;

(8) The applicant's capacity to ensure continuity in client services and representation of eligible clients with pending matters; and

(9) The applicant does not have known or potential conflicts of interest, institutional or otherwise, with

Legal Services Corporation

§ 1635.2

the client community and demonstrates a capacity to protect against such conflicts.

(b) In selecting recipients of awards for grants or contracts under this part, the Corporation shall not grant any preference to current or previous recipients of funds from the Corporation.

§ 1634.10 Transition provisions.

(a) When the competitive bidding process results in the award of a grant or contract to an applicant, other than the current recipient, to serve the area currently served by that recipient, the Corporation—

(1) may provide, if the law permits, continued funding to the current recipient, for a period of time and at a level to be determined by the Corporation after consultation with the recipient, to ensure the prompt and orderly completion of or withdrawal from pending cases or matters or the transfer of such cases or matters to the new recipient or to other appropriate legal service providers in a manner consistent with the rules of ethics or professional responsibility for the jurisdiction in which those services are being provided; and

(2) shall ensure, after consultation with the recipient, the appropriate disposition of real and personal property purchased by the current recipient in whole or in part with Corporation funds consistent with the Corporation's policies.

(b) Awards of grants or contracts for legal assistance to any applicant that is not a current recipient may, in the Corporation's discretion, provide for incremental increases in funding up to the annualized level of the grant or contract award in order to ensure that the applicant has the capacity to utilize Corporation funds in an effective and economical manner.

§ 1634.11 Replacement of recipient that does not complete grant term.

In the event that a recipient is unable or unwilling to continue to perform the duties required under the terms of its grant or contract, the Corporation shall take all practical steps to ensure the continued provision of legal assistance in that service area. The Corporation shall have discretion

to determine how legal assistance is to be provided to the service area, including, but not limited to, enlarging the service area of a neighboring recipient, putting a current recipient on month-to-month funding or entering into a short term, interim grant or contract with another qualified provider for the provision of legal assistance in the service area until the completion of a competitive bidding process within a reasonable period of time.

§ 1634.12 Emergency procedures and waivers.

The President of the Corporation may waive the requirements of §§ 1634.6 and 1634.8(a) (3) and (5) when necessary to comply with requirements imposed by law on the awards of grants and contracts for a particular fiscal year.

PART 1635—TIMEKEEPING REQUIREMENT

Sec.

1635.1 Purpose.

1635.2 Definitions.

1635.3 Timekeeping requirement.

1635.4 Administrative provisions.

AUTHORITY: 42 U.S.C. §§ 2996e(b)(1)(A), 2996g(a), 2996g(b), 2996g(e).

SOURCE: 65 FR 41882, July 7, 2000, unless otherwise noted.

§ 1635.1 Purpose.

This part is intended to improve accountability for the use of all funds of a recipient by:

(a) Assuring that allocations of expenditures of LSC funds pursuant to 45 CFR part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended;

(b) Enhancing the ability of the recipient to determine the cost of specific functions; and

(c) Increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations.

§ 1635.2 Definitions.

As used in this part—

(a) A *case* is a form of program service in which an attorney or paralegal of a recipient provides legal services to

§ 1635.3

one or more specific clients, including, without limitation, providing representation in litigation, administrative proceedings, and negotiations, and such actions as advice, providing brief services and transactional assistance, and assistance with individual PAI cases.

(b) A *matter* is an action which contributes to the overall delivery of program services but does not involve direct legal advice to or legal representation of one or more specific clients. Examples of matters include both direct services, such as but not limited to, community education presentations, operating *pro se* clinics, providing information about the availability of legal assistance, and developing written materials explaining legal rights and responsibilities; and indirect services, such as training, continuing legal education, general supervision of program services, preparing and disseminating desk manuals, PAI recruitment, referral, intake when no case is undertaken, and tracking substantive law developments.

(c) *Restricted activities* means those activities that recipients may not undertake as set out in 45 CFR part 1610.

(d) A *supporting activity* is any action that is not a case or matter, including management in general, and fund-raising.

§ 1635.3 Timekeeping requirement.

(a) All expenditures of funds for recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must be carried out in accordance with 45 CFR part 1630.

(b) Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity.

(1) Time records must be created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient.

(2) Each record of time spent must contain: for a case, a unique client name or case number; for matters or supporting activities, an identification

45 CFR Ch. XVI (10–1–17 Edition)

of the category of action on which the time was spent.

(c) The timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type.

(d) Recipients shall require any attorney or paralegal who works part-time for the recipient and part-time for an organization that engages in restricted activities to certify in writing that the attorney or paralegal has not engaged in restricted activity during any time for which the attorney or paralegal was compensated by the recipient or has not used recipient resources for restricted activities. The certification requirement does not apply to a *de minimis* action related to a restricted activity. Actions consistent with the *de minimis* standard are those that meet all or most of the following criteria: actions that are of little substance; require little time; are not initiated by the part-time employee; and, for the most part, are unavoidable. Certifications shall be made on a quarterly basis and shall be made on a form determined by LSC.

§ 1635.4 Administrative provisions.

Time records required by this section shall be available for examination by auditors and representatives of LSC, and by any other person or entity statutorily entitled to access to such records. LSC shall not disclose any time record except to a Federal, State or local law enforcement official or to an official of an appropriate bar association for the purpose of enabling such bar association official to conduct an investigation of an alleged violation of the rules of professional conduct.

PART 1636—CLIENT IDENTITY AND STATEMENT OF FACTS

Sec.

1636.1 Purpose.

1636.2 Requirements.

1636.3 Access to written statements.

1636.4 Applicability.

1636.5 Recipient policies, procedures and recordkeeping.

AUTHORITY: Pub. L. 104–208, 110 Stat. 3009; Pub. L. 104–134, 110 Stat. 1321.

SOURCE: 62 FR 19420, Apr. 21, 1997, unless otherwise noted.

§ 1636.1 Purpose.

The purpose of this rule is to ensure that, when an LSC recipient files a complaint in a court of law or otherwise initiates or participates in litigation against a defendant or engages in pre-complaint settlement negotiations, the recipient identifies the plaintiff it represents to the defendant and ensures that the plaintiff has a colorable claim.

§ 1636.2 Requirements.

(a) When a recipient files a complaint in a court of law or otherwise initiates or participates in litigation against a defendant, or before a recipient engages in pre-complaint settlement negotiations with a prospective defendant on behalf of a client who has authorized it to file suit in the event that the settlement negotiations are unsuccessful, it shall:

(1) Identify each plaintiff it represents by name in any complaint it files, or in a separate notice provided to the defendant against whom the complaint is filed where disclosure in the complaint would be contrary to law or court rules or practice, and identify each plaintiff it represents to prospective defendants in pre-litigation settlement negotiations, unless a court of competent jurisdiction has entered an order protecting the client from such disclosure based on a finding, after notice and an opportunity for a hearing on the matter, of probable, serious harm to the plaintiff if the disclosure is not prevented; and

(2) Prepare a dated written statement signed by each plaintiff it represents, enumerating the particular facts supporting the complaint, insofar as they are known to the plaintiff when the statement is signed.

(b) The statement of facts must be written in English and, if necessary, in a language other than English that the plaintiff understands.

(c) In the event of an emergency, where the recipient reasonably believes that delay is likely to cause harm to a significant safety, property or liberty interest of the client, the recipient may proceed with the litigation or negotiation without a signed statement of facts, provided that the statement is

prepared and signed as soon as possible thereafter.

§ 1636.3 Access to written statements.

(a) Written statements of facts prepared in accordance with this part are to be kept on file by the recipient and made available to the Corporation or to any Federal department or agency auditing or monitoring the activities of the recipient or to any auditor or monitor receiving Federal funds to audit or monitor on behalf of a Federal department or agency or on behalf of the Corporation.

(b) This part does not give any person or party other than those listed in paragraph (a) of this section any right of access to the plaintiff's written statement of facts, either in the lawsuit or through any other procedure. Access to the statement of facts by such other persons or parties is governed by applicable law and the discovery rules of the court in which the action is brought.

§ 1636.4 Applicability.

This part applies to cases for which private attorneys are compensated by the recipient as well as to those cases initiated by the recipient's staff.

§ 1636.5 Recipient policies, procedures and recordkeeping.

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

PART 1637—REPRESENTATION OF PRISONERS

Sec.

- 1637.1 Purpose.
- 1637.2 Definitions.
- 1637.3 Prohibition.
- 1637.4 Change in circumstances.
- 1637.5 Recipient policies, procedures and recordkeeping.

AUTHORITY: 42 U.S.C. 2996g(e); Pub. L. 104-208, 110 Stat. 3009; Pub. L. 104-134, 110 Stat. 1321.

SOURCE: 62 FR 19422, Apr. 21, 1997, unless otherwise noted.

§ 1637.1

§ 1637.1 Purpose.

This part is intended to ensure that recipients do not participate in any civil litigation on behalf of persons incarcerated in Federal, State or local prisons.

§ 1637.2 Definitions.

(a) *Incarcerated* means the involuntary physical restraint of a person who has been arrested for or convicted of a crime.

(b) *Federal, State or local prison* means any penal facility maintained under governmental authority.

§ 1637.3 Prohibition.

A recipient may not participate in any civil litigation on behalf of a person who is incarcerated in a Federal, State or local prison, whether as a plaintiff or as a defendant, nor may a recipient participate on behalf of such an incarcerated person in any administrative proceeding challenging the conditions of incarceration.

§ 1637.4 Change in circumstances.

If, to the knowledge of the recipient, a client becomes incarcerated after litigation has commenced, the recipient must use its best efforts to withdraw promptly from the litigation, unless the period of incarceration is anticipated to be brief and the litigation is likely to continue beyond the period of incarceration.

§ 1637.5 Recipient policies, procedures and recordkeeping.

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

PART 1638—RESTRICTION ON SOLICITATION

Sec.

- 1638.1 Purpose.
- 1638.2 Definitions.
- 1638.3 Prohibition.
- 1638.4 Permissible activities.
- 1638.5 Recipient policies.

AUTHORITY: Sec. 504(a)(18), Pub. L. 104-208, 110 Stat. 3009; Pub. L. 104-134, 110 Stat. 1321.

45 CFR Ch. XVI (10-1-17 Edition)

SOURCE: 62 FR 19424, Apr. 21, 1997, unless otherwise noted.

§ 1638.1 Purpose.

This part is designed to ensure that recipients and their employees do not solicit clients.

§ 1638.2 Definitions.

(a) *In-person* means a face-to-face encounter or a personal encounter via other means of communication such as a personal letter or telephone call.

(b) *Unsolicited advice* means advice to obtain counsel or take legal action given by a recipient or its employee to an individual who did not seek the advice and with whom the recipient does not have an attorney-client relationship.

§ 1638.3 Prohibition.

(a) Recipients and their employees are prohibited from representing a client as a result of in-person unsolicited advice.

(b) Recipients and their employees are also prohibited from referring to other recipients individuals to whom they have given in-person unsolicited advice.

§ 1638.4 Permissible activities.

(a) This part does not prohibit recipients or their employees from providing information regarding legal rights and responsibilities or providing information regarding the recipient's services and intake procedures through community legal education activities such as outreach, public service announcements, maintaining an ongoing presence in a courthouse to provide advice at the invitation of the court, disseminating community legal education publications, and giving presentations to groups that request them.

(b) A recipient may represent an otherwise eligible individual seeking legal assistance from the recipient as a result of information provided as described in § 1638.4(a), provided that the request has not resulted from in-person unsolicited advice.

Legal Services Corporation

§ 1639.5

(c) This part does not prohibit representation or referral of clients by recipients pursuant to a statutory or private ombudsman program that provides investigatory and referral services and/or legal assistance on behalf of persons who are unable to seek assistance on their own, including those who are institutionalized or are physically or mentally disabled.

§ 1638.5 Recipient policies.

Each recipient shall adopt written policies to implement the requirements of this part.

PART 1639—WELFARE REFORM

Sec.

1639.1 Purpose.

1639.2 Definitions.

1639.3 Prohibition.

1639.4 Permissible representation of eligible clients.

1639.5 Exceptions for public rulemaking and responding to requests with non-LSC funds.

1639.6 Recipient policies and procedures.

AUTHORITY: 42 U.S.C. 2996g(e); Pub. L. 104-208, 110 Stat. 3009; Pub. L. 104-134, 110 Stat. 1321.

SOURCE: 62 FR 30766, June 5, 1997, unless otherwise noted.

§ 1639.1 Purpose.

The purpose of this rule is to ensure that LSC recipients do not initiate litigation involving, or challenge or participate in, efforts to reform a Federal or State welfare system. The rule also clarifies when recipients may engage in representation on behalf of an individual client seeking specific relief from a welfare agency and under what circumstances recipients may use funds from sources other than the Corporation to comment on public rulemaking or respond to requests from legislative or administrative officials involving a reform of a Federal or State welfare system.

§ 1639.2 Definitions.

An effort to reform a Federal or State welfare system includes all of the provisions, except for the Child Support Enforcement provisions of Title III, of the Personal Responsibility and Work Opportunity Reconciliation Act

of 1996 (Personal Responsibility Act), 110 Stat. 2105 (1996), and subsequent legislation enacted by Congress or the States to implement, replace or modify key components of the provisions of the Personal Responsibility Act or by States to replace or modify key components of their General Assistance or similar means-tested programs conducted by States or by counties with State funding or under State mandates.

[67 FR 19343, Apr. 19, 2002]

§ 1639.3 Prohibition.

Except as provided in §§1639.4 and 1639.5, recipients may not initiate legal representation, or participate in any other way in litigation, lobbying or rulemaking, involving an effort to reform a Federal or State welfare system. Prohibited activities include participation in:

(a) Litigation challenging laws or regulations enacted as part of an effort to reform a Federal or State welfare system.

(b) Rulemaking involving proposals that are being considered to implement an effort to reform a Federal or State welfare system.

(c) Lobbying before legislative or administrative bodies undertaken directly or through grassroots efforts involving pending or proposed legislation that is part of an effort to reform a Federal or State welfare system.

§ 1639.4 Permissible representation of eligible clients.

Recipients may represent an individual eligible client who is seeking specific relief from a welfare agency.

[62 FR 30766, June 5, 1997, as amended at 67 FR 19343, Apr. 19, 2002]

§ 1639.5 Exceptions for public rulemaking and responding to requests with non-LSC funds.

Consistent with the provisions of 45 CFR 1612.6 (a) through (e), recipients may use non-LSC funds to comment in a public rulemaking proceeding or respond to a written request for information or testimony from a Federal, State or local agency, legislative body,

§ 1639.6

or committee, or a member thereof, regarding an effort to reform a Federal or State welfare system.

§ 1639.6 Recipient policies and procedures.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part.

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).

SOURCE: 80 FR 21656, Apr. 20, 2015, unless otherwise noted.

§ 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 Web site 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 at a public meeting. LSC will provide recipients with notice when the list is modified.

(b) For the purposes of this part and the laws referenced in paragraph (a) of this section, 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 agree-

45 CFR Ch. XVI (10–1–17 Edition)

ment 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

Legal Services Corporation

§ 1641.2

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.

PART 1641—DEBARMENT, SUSPENSION AND REMOVAL OF RECIPIENT AUDITORS

Subpart A—General

Sec.

- 1641.1 Purpose/Applicability.
- 1641.2 Definitions.
- 1641.3 Scope of debarment, suspension and removal.
- 1641.4 Duration of debarment, suspension and removal.

Subpart B—Debarment

- 1641.5 Debarment.
- 1641.6 Procedures for debarment.
- 1641.7 Causes for debarment.
- 1641.8 Notice of proposed debarment.
- 1641.9 Response to notice of proposed debarment.
- 1641.10 Additional proceedings as to disputed material facts.

Subpart C—Suspension

- 1641.11 Suspension.
- 1641.12 Procedures for suspension.
- 1641.13 Causes for suspension.
- 1641.14 Notice of proposed suspension.
- 1641.15 Response to notice of proposed suspension.

Subpart D—Removal

- 1641.16 Removal.
- 1641.17 Procedures for removal.
- 1641.18 Causes for removal.
- 1641.19 Notice of proposed removal.
- 1641.20 Response to notice of proposed removal.
- 1641.21 Additional proceedings as to disputed material facts.

Subpart E—Decisions

- 1641.22 Decisions of debarring official.
- 1641.23 Exceptions to debarment, suspension and removal.
- 1641.24 Appeal and reconsideration of debarring official decisions.

AUTHORITY: 42 U.S.C. 2996e(g); Pub. L. 105-277.

SOURCE: 64 FR 67507, Dec. 2, 1999, unless otherwise noted.

Subpart A—General

§ 1641.1 Purpose/Applicability.

In order to assist in ensuring that recipients receive acceptable audits, this part sets out the authority of the Legal Services Corporation (“LSC”) Office of Inspector General (“OIG”) to debar, suspend or remove independent public accountants (“IPAs”) from performing audit services for recipients. This rule informs IPAs of their rights to notice and an opportunity to be heard on actions involving debarment, suspension or removal, and the standards upon which such actions will be taken. This part applies to IPAs performing audit services for recipients, subrecipients or other entities which receive LSC funds and are required to have an audit performed in accordance with guidance promulgated by the OIG.

§ 1641.2 Definitions.

Adequate evidence means information sufficient to support the reasonable belief that a particular act or omission has occurred.

Audit services means the annual financial statement audit of a recipient, including an audit of the recipient’s financial statements, systems of internal control, and compliance with laws and regulations.

Contract means an agreement between a recipient and an IPA for an IPA to provide audit services to the recipient.

Conviction means a judgment or conviction of a criminal offense by any court, whether entered upon a verdict or plea, including but not limited to, pleas of *nolo contendere*.

Debarment means a decision by the debarring official to prohibit an IPA from soliciting or entering into new contracts to perform audit services for recipient(s) based upon a finding by a preponderance of the evidence that any of the causes for debarment set out in § 1641.7 exist. Debarment may cover an IPA’s contracts with all recipients or with one or more specific recipients.

Debarring official is the official responsible for debarment, suspension or removal actions under this part. The

§ 1641.3

45 CFR Ch. XVI (10–1–17 Edition)

OIG legal counsel is the debarring official. In the absence of an OIG legal counsel or in the discretion of the Inspector General, the debarring official shall be the OIG staff person or other individual designated by the Inspector General.

Indictment means a charge by a grand jury that the person named therein has committed a criminal offense. An information, presentment, or other filing by competent authority charging a criminal offense shall be given the same effect as an indictment.

IPA means an independent public accountant or firm of accountants.

Knowingly means that an act was done voluntarily and intentionally and not because of mistake or accident.

Material fact means one which is necessary to determine the outcome of an issue or case and without which the case could not be supported.

Person means an individual or a firm, partnership, corporation, association, or other legal entity.

Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

Removal means a decision by the debarring official to prohibit an IPA from performing audit services in subsequent years of an existing contract with one or more specific recipients based upon a finding by a preponderance of the evidence that any of the causes set out in § 1641.18 exist.

Suspension means a decision by the debarring official, in anticipation of a debarment, to prohibit an IPA from soliciting or entering into new contracts to perform audit services for recipient(s) based upon a finding of adequate evidence that any of the causes referred to in § 1641.13 exist. Suspension may preclude an IPA from soliciting or entering into new contracts with all recipients or with one or more specific recipients.

§ 1641.3 Scope of debarment, suspension and removal.

An IPA may be debarred, suspended or removed under this part only if the IPA is specifically named and given notice of the proposed action and an op-

portunity to respond in accordance with this part.

(a) *Actions against individual IPAs.* Debarment, suspension or removal of an individual IPA, debar, suspends or removes that individual from performing audit services as an individual or as an employee, independent contractor, agent or other representative of an IPA firm.

(b) *Actions against IPA firms.* (1) Debarment, suspension or removal shall affect only those divisions or other organizational elements materially involved in the relevant engagement and as to which there is cause to debar, suspend or remove.

(2) The debarment, suspension or removal action contemplated in paragraph (b)(1) of this section may include any firm that is an affiliate, subcontractor, joint venturer, agent or representative of the IPA firm only if such firm was materially involved in the relevant engagement and is specifically named and given notice of the proposed action and an opportunity to respond in accordance with this part.

(3) The debarment, suspension or removal action contemplated in paragraph (b)(1) of this section may include an individual officer, director, or partner responsible for the engagement, or an individual employee, independent contractor, agent, representative or other individual associated with an IPA firm only if such individual is specifically named and given notice of the proposed action and an opportunity to respond in accordance with this part.

§ 1641.4 Duration of debarment, suspension and removal.

A debarment, suspension or removal is effective as set out in the debarring official's decision to debar, suspend or remove, issued pursuant to § 1641.22.

(a) *Debarment.* (1) Debarment generally should not exceed three years, but may be for a shorter period based on a consideration of the evidence presented by the IPA. Debarment may exceed three years in extraordinary circumstances.

(2) If a suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

(3) The debarring official may extend an existing debarment for an additional period if the debarring official determines, based on additional facts not previously in the record, that an extension is necessary to protect LSC funds. The standards and procedures in this part shall be applied in any proceeding to extend a debarment.

(b) *Suspension.* (1) The debarring official may determine that a cause for suspension exists, but that an investigation or other legal or debarment proceeding should be completed before proceeding to a debarment. Suspension shall be for a temporary period pending the completion of an investigation or other legal or debarment proceedings, including a proceeding conducted by the OIG, a law enforcement or other government agency, an investigative or audit official from another OIG, a court, or a state licensing body or other organization with authority over IPAs.

(2) If debarment proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated unless an official or organization conducting a proceeding referred to in paragraph (b)(1) of this section requests its extension in writing. In such cases, the suspension may be extended up to an additional six months. In no event may a suspension be imposed for more than 18 months, unless debarment proceedings have been initiated within that period.

(3) The OIG shall notify the appropriate official or organization conducting a proceeding referred to in paragraph (b)(1) of this section, if any, of the suspension within 10 days of its implementation, and shall notify such official or organization of an impending termination of a suspension at least 30 days before the 12-month period expires to allow an opportunity to request an extension.

(4) The limit on the duration of a suspension in paragraph (b)(2) of this section may be waived by the affected IPA.

(c) *Removal.* Removal shall be effective for the years remaining on the existing contract(s) between the IPA and the recipient(s).

Subpart B—Debarment

§ 1641.5 Debarment.

(a) IPAs debarred from providing audit services for all recipients are prohibited from soliciting or entering into any new contracts for audit services with recipients for the duration of the specified period of debarment. Recipients shall not knowingly award contracts to, extend or modify existing contracts with, or solicit proposals from, such IPAs. Debarred IPAs also are prohibited from providing audit services to recipients as agents or representatives of other IPAs.

(b) IPAs debarred from providing audit services for one or more specific recipient(s) are prohibited from soliciting or entering into any new contracts for audit services with such recipient(s) for the duration of the period of debarment as determined pursuant to this part. The affected recipient(s) shall not knowingly award contracts to, extend or modify existing contracts with, or solicit proposals from, such IPAs. Debarred IPAs also are prohibited from providing audit services to the affected recipient(s) as agents or representatives of other IPAs, and are required to provide prior written notice to the debarring official before providing such services to other recipients. Debarred IPAs also must provide prior written notice of the debarment to any recipient for which the IPA provides audit services.

§ 1641.6 Procedures for debarment.

Before debarring an IPA, the OIG shall provide the IPA with a hearing in accordance with the procedures set out in §§ 1641.7 through 1641.9. Such hearing shall be held entirely by written submissions, except:

(a) Additional proceedings shall be held under § 1641.10 if the debarring official finds there is a genuine dispute of material fact; and/or

(b) A meeting may be held under § 1641.9(c).

§ 1641.7 Causes for debarment.

The debarring official may debar an IPA from performing audit services in accordance with the procedures set forth in this part upon a finding by a preponderance of the evidence that:

§ 1641.8

(a) The IPA has failed significantly to comply with government auditing standards established by the Comptroller General of the United States, generally accepted auditing standards and/or OIG audit guidance as stated in the OIG Audit Guide for Recipients and Auditors, including the Compliance Supplement for Audits of LSC Recipients, and in OIG Audit Bulletins;

(b) The IPA is currently debarred from contracting with any Federal agency or entity receiving Federal funds, including when the IPA has stipulated to such debarment;

(c) The IPA's license to practice accounting has been revoked, terminated or suspended by a state licensing body or other organization with authority over IPAs;

(d) The IPA has been convicted of any offense indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to commit such an offense, and the conviction is final; or

(e) The IPA has been found subject to a civil judgment for any action indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to take such action, and the judgment is final.

§ 1641.8 Notice of proposed debarment.

(a) Before debarring an IPA, the OIG shall send the IPA written notice of the proposed debarment. The notice shall be sent in a manner that provides evidence of its receipt and shall:

(1) State that debarment is being considered;

(2) Identify the reasons for the proposed debarment sufficient to put the IPA on notice of the conduct or transaction(s) upon which a debarment proceeding is based;

(3) Identify the regulatory provisions governing the debarment proceeding; and

(4) State that debarment may be for a period of up to three years or longer under extraordinary circumstances. If the OIG has determined that extraordinary circumstances warranting debarment in excess of three years may exist, the notice shall so state.

(b) A copy of the notice also shall be sent to the affected recipient(s), if any, which may comment on the proposed action in the time frame set out in § 1641.9.

45 CFR Ch. XVI (10–1–17 Edition)

§ 1641.9 Response to notice of proposed debarment.

(a) The IPA shall have 30 days from receipt of the notice within which to respond.

(b) The response shall be in writing and may include information and argument in opposition to the proposed debarment, including any additional specific information pertaining to the possible causes for debarment, and information and argument in mitigation of the proposed period of debarment.

(c) The response may request a meeting with the debarring official to permit the IPA to discuss issues of fact or law relating to the proposed debarment, or to otherwise resolve the pending matters. Any such meeting shall take the form that the debarring official deems appropriate and shall be held within 20 days of the response. If the IPA requests an in person meeting, it shall be held at LSC headquarters.

(d) Failure to respond to the notice shall be deemed an admission of the existence of the cause(s) for debarment set forth in the notice and an acceptance of the period of debarment. In such circumstances, without further proceedings, the debarring official may enter a final decision stating the period of debarment.

§ 1641.10 Additional proceedings as to disputed material facts.

(a) In actions not based upon a conviction or civil judgment under § 1641.7 (d) or (e), if the debarring official finds that the IPA's submission raises a genuine dispute of material fact, the IPA shall be afforded an opportunity to appear (with counsel, if desired), submit documentary evidence, present witnesses, and confront any witnesses the OIG presents. If the debarring official finds that the IPA's submission does not raise a genuine issue of material fact, additional proceedings will not be provided. In such case, the hearing shall be held entirely by written submissions, except that a meeting may be held under § 1641.9(c).

(b) If the debarring official determines additional proceedings to be warranted, OIG shall notify the IPA. Such notice shall include notice of the procedures under which such proceedings shall be conducted.

Legal Services Corporation

§ 1641.15

(c) A transcribed record of any additional proceedings shall be prepared and a copy shall be made available to the IPA without cost.

(d) The debarring official may refer disputed material facts to a fact finder, who need not be a member of the OIG staff, for fact finding, analysis and recommendation.

Subpart C—Suspension

§ 1641.11 Suspension.

(a) IPAs suspended from providing audit services for all recipients are prohibited from soliciting or entering into any new contracts for audit services with recipients for the duration of the suspension. Recipients shall not knowingly award contracts to, extend or modify existing contracts with, or solicit proposals from, such IPAs. Suspended IPAs also are prohibited from providing audit services to recipients as agents or representatives of other IPAs.

(b) IPAs suspended from providing audit services for one or more specific recipient(s) are prohibited from soliciting or entering into any new contracts for audit services with such recipient(s) for the duration of the period of suspension as determined pursuant to this part. The affected recipient(s) shall not knowingly award contracts to, extend or modify existing contracts with, or solicit proposals from, such IPAs. Suspended IPAs also are prohibited from providing audit services to the affected recipient(s) as agents or representatives of other IPAs, and are required to provide prior written notice to the debarring official before providing such services to other recipients. Suspended IPAs also must provide prior written notice of the suspension to any recipient for which the IPA provides audit services.

§ 1641.12 Procedures for suspension.

Before suspending an IPA, the OIG shall provide the IPA with a show cause hearing in accordance with the procedures set out in §§1641.13 through 1641.15. Such hearing shall be held entirely by written submissions, except that a meeting may be held under §1641.15(c).

§ 1641.13 Causes for suspension.

The debarring official may suspend an IPA in accordance with the procedures set forth in this part upon adequate evidence that:

(a) A cause for debarment under §1641.7 may exist;

(b) The IPA has been indicted for or convicted of any offense described in §1641.7;

(c) The IPA has been found subject to a civil judgment described in §1641.7(e), whether the judgment is final or not.

(d) The IPA has been suspended from contracting with a Federal agency or entity receiving Federal funds including when the IPA has stipulated to the suspension.

§ 1641.14 Notice of proposed suspension.

(a) Before suspending an IPA, OIG shall send it written notice of cause to suspend. Such notice shall:

(1) Include a directive to show cause, signed by the debarring official, which shall inform the IPA that unless the IPA responds within 10 days as provided in §1641.15, a suspension will be imposed;

(2) Identify the reasons for the proposed suspension sufficient to put the IPA on notice of the conduct or transaction(s) upon which a suspension proceeding is based;

(3) Identify the regulatory provisions governing the suspension proceeding; and

(4) State that, if imposed, the suspension shall be for a temporary period pending the completion of an investigation or other legal or debarment proceeding.

(b) A copy of the notice also shall be sent to the affected recipient(s), if any, who may comment on the proposed action in the time frame set out in §1641.15.

§ 1641.15 Response to notice of proposed suspension.

(a) The IPA shall have 10 days from receipt of the notice within which to respond.

§ 1641.16

(b) The response shall be in writing and may include information and argument in opposition to the proposed suspension, including any additional specific information pertaining to the possible causes for suspension, and information and argument in mitigation of the proposed period of suspension.

(c) The response may request a meeting with the OIG official identified in the notice to permit the IPA to discuss issues of fact or law relating to the proposed suspension, or to otherwise resolve the pending matters.

(1) Any such meeting shall take such form as the debarring official deems appropriate and shall be held within 10 days of the response.

(2) No meeting will be held if a law enforcement official, an investigative or audit official from another OIG, a state licensing body or other organization with authority over IPAs, or a governmental agency has advised in writing that the substantial interest of a governmental unit would be prejudiced by such a meeting and the debarring official determines that the suspension is based on the same facts as the pending legal proceedings referenced by the law enforcement official.

(d) Failure to respond to the notice shall be deemed an admission of the existence of the cause(s) for suspension set forth in the notice and an acceptance of the period of suspension. In such circumstances, the OIG may proceed to a final decision without further proceedings.

Subpart D—Removal

§ 1641.16 Removal.

Removed IPAs are prohibited from performing audit services in subsequent years under an existing contract(s) with one or more specific recipients. The affected recipient(s) shall not extend existing contracts with such IPAs. Removed IPAs also are prohibited from providing audit services to the affected recipient(s) as agents or representatives of other IPAs, and are required to provide prior written notice to the debarring official before providing such services to other recipients. Removed IPAs also must provide

45 CFR Ch. XVI (10–1–17 Edition)

prior written notice of the removal to any such recipient.

§ 1641.17 Procedures for removal.

(a) Before removing an IPA, the OIG shall provide the IPA with a hearing in accordance with the procedures set out in §§ 1641.18 through 1641.21. Such hearing shall be held entirely by written submissions, except:

(1) Additional proceedings shall be held under § 1641.21 if the debarring official finds there is a genuine dispute of material fact; and/or

(2) A meeting may be held under § 1641.20(c).

(b) A Notice of Proposed Removal normally will be accompanied by a Notice of Proposed Debarment, and the proceedings may be consolidated.

§ 1641.18 Causes for removal.

The debarring official may remove an IPA from performing audit services in accordance with the procedures set forth in this part upon a finding by a preponderance of the evidence that:

(a) The IPA has failed significantly to comply with government auditing standards established by the Comptroller General of the United States, generally accepted auditing standards and/or OIG audit guidance as stated in the OIG Audit Guide for Recipients and Auditors, including the Compliance Supplement for Audits of LSC Recipients, and in OIG Audit Bulletins;

(b) The IPA is currently debarred from contracting with any Federal agency or entity receiving Federal funds, including when the IPA has stipulated to such debarment;

(c) The IPA's license to practice accounting has been revoked, terminated or suspended by a state licensing body or other organization with authority over IPAs;

(d) The IPA has been convicted of any offense indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to commit such an offense, and the conviction is final; or

(e) The IPA has been found subject to a civil judgment for any action indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to take such action, and the judgment is final.

Legal Services Corporation

§ 1641.22

§ 1641.19 Notice of proposed removal.

(a) Before removing an IPA, the OIG shall send the IPA written notice of the proposed removal. The notice shall be sent in a manner that provides evidence of its receipt and shall:

(1) State that removal is being considered;

(2) Identify the reasons for the proposed removal sufficient to put the IPA on notice of the conduct or transaction(s) upon which a removal proceeding is based;

(3) Identify the regulatory provisions governing the removal proceeding; and

(4) State that removal shall be for the years remaining on the existing contract(s) between the IPA and the recipient(s).

(b) A copy of the notice also shall be sent to the affected recipient(s), if any, which may comment on the proposed action in the time frame set out in § 1641.20.

§ 1641.20 Response to notice of proposed removal.

(a) The IPA shall have 30 days from receipt of the notice within which to respond.

(b) The response shall be in writing and may include information and argument in opposition to the proposed removal, including any additional specific information pertaining to the possible causes for removal.

(c) The response may request a meeting with the debarring official to permit the IPA to discuss issues of fact or law relating to the proposed removal, or to otherwise resolve the pending matters. Any such meeting shall take the form that the debarring official deems appropriate and shall be held within 20 days of the response. If the IPA requests an in person meeting, it shall be held at LSC headquarters.

(d) Failure to respond to the notice shall be deemed an admission of the existence of the cause(s) for removal set forth in the notice and an acceptance of the removal. In such circumstances, without further proceedings, the debarring official may enter a final decision removing the IPA.

§ 1641.21 Additional proceedings as to disputed material facts.

(a) In actions not based upon a conviction or civil judgment under § 1641.18(d) or (e), if the debarring official finds that the IPA's submission raises a genuine dispute of material fact, the IPA shall be afforded an opportunity to appear (with counsel, if desired), submit documentary evidence, present witnesses, and confront any witnesses the OIG presents. If the debarring official finds that the IPA's submission does not raise a genuine issue of material fact, additional proceedings will not be provided. In such case, the hearing shall be held entirely by written submissions, except that a meeting may be held under § 1641.20(c).

(b) If the debarring official determines additional proceedings to be warranted, OIG shall notify the IPA. Such notice shall include notice of the procedures under which such proceedings shall be conducted.

(c) A transcribed record of any additional proceedings shall be prepared and a copy shall be made available to the IPA without cost.

(d) The debarring official may refer disputed material facts to a fact finder, who need not be a member of the OIG staff, for fact finding, analysis and recommendation.

Subpart E—Decisions

§ 1641.22 Decisions of debarring official.

(a) *Standard of proof.* (1) A debarment or removal must be based on a finding that the cause or causes for debarment or removal are established by a preponderance of the evidence in the administrative record of the case.

(2) A suspension must be based on a finding that the cause or causes are established by adequate evidence in the administrative record of the case.

(b) The administrative record consists of any information, reports, documents or other evidence identified and relied upon in the Notice of Proposed Debarment, the Notice of Proposed Suspension, or the Notice of Proposed Removal, together with any relevant

§ 1641.23

material contained in the IPA's response or submitted by an affected recipient. In the case of debarment or removal, when additional proceedings are necessary to determine disputed material facts, the administrative record also shall consist of any relevant material submitted or presented at such proceedings.

(c) Failure of the OIG to meet a time requirement of this part does not preclude the OIG from debarring, suspending or removing an IPA. In extraordinary circumstances, the OIG may grant an IPA an extension of the time requirements set out in this part.

(d) *Notice of decisions.* IPAs shall be given prompt notice of the debarring official's decision. A copy of the decision also will be sent to the affected recipient. If the debarring official debars, suspends or removes an IPA, the decision shall:

(1) Set forth the finding(s) upon which the decision is based;

(2) Set forth the effect of the debarment, suspension or removal action and the effective dates of the action;

(3) Refer the IPA to its procedural rights of appeal and reconsideration under § 1641.24; and

(4) Inform the IPA that a copy of the debarring official's decision will be a public document and the fact of debarment, suspension or removal will be a matter of public record.

(e) If the debarring official decides that a debarment, suspension, or removal is not warranted, the Notice may be withdrawn or the proceeding may be otherwise terminated.

(f) If the debarring official deems it appropriate, the debarring official may, at any time, settle by agreement with the IPA a debarment, suspension, or removal action. Such a negotiated settlement may include the imposition of appropriate conditions on the IPA.

§ 1641.23 Exceptions to debarment, suspension and removal.

Exceptions to the effects of debarment, suspension or removal may be available in unique circumstances, when there are compelling reasons to use a particular IPA for a specific task. Requests for such exceptions may be submitted only by the recipient requiring audit services. The Inspector Gen-

45 CFR Ch. XVI (10-1-17 Edition)

eral may except a contract from the effects of debarment, suspension or removal upon a written determination that a compelling reason exists for using the IPA in the particular instance.

§ 1641.24 Appeal and reconsideration of debarring official decisions.

(a) *Appeal and reconsideration generally.* A debarred, suspended or removed IPA may submit the debarring official's decision for appeal or reconsideration in accordance with this section. Within 60 days, IPAs shall be given notice of decisions on appeal and reconsideration. The relief, if any, granted upon appeal or reconsideration shall be limited to the relief stated in the decision on the appeal or reconsideration.

(b) *Appeal.* (1) A debarred, suspended or removed IPA may appeal the decision to the Inspector General, who may uphold, reverse or modify the debarring official's decision.

(2) The appeal shall be filed in writing:

(i) By a debarred or removed IPA, within 30 days of receipt of the decision;

(ii) By a suspended IPA, within 15 days of receipt of the decision.

(3) The Inspector General, at his or her discretion and after determining that a compelling reason exists, may stay the effect of the debarment, suspension or removal pending conclusion of his or her review of the matter.

(c) *Reconsideration.* (1) A debarred, suspended or removed IPA may submit a request to the debarring official to reconsider the debarment, suspension or removal decision, reduce the period of debarment or removal, or terminate the suspension.

(2) Such requests shall be in writing and supported by documentation that the requested action is justified by:

(i) In the case of suspension, reversal of the conviction or civil judgment upon which the suspension was based;

(ii) Newly discovered material evidence;

(iii) Bona fide change in ownership or management;

(iv) Elimination of other causes for which the debarment, suspension or removal was imposed; or

Legal Services Corporation

§ 1643.5

(v) Other reasons the debarring official deems appropriate.

(3) A request for reconsideration of a suspension which was based a conviction, civil judgment, or sanction that has been reversed may be filed at any time.

(4) Requests for reconsideration based on other grounds may only be filed during the period commencing 60 days after the debarring official's decision imposing the debarment or suspension. Only one such request may be filed in any twelve month period.

(5) The debarring official's decision on a request for reconsideration is subject to the appeal procedure set forth in paragraph (b) of this section.

PART 1642 [RESERVED]

PART 1643—RESTRICTION ON ASSISTED SUICIDE, EUTHANASIA, AND MERCY KILLING

Sec.

1643.1 Purpose.

1643.2 Definitions.

1643.3 Prohibition.

1643.4 Applicability.

1643.5 Recipient policies and recordkeeping.

AUTHORITY: Pub. L. 105-12; 42 U.S.C. 2996f(b)(11).

SOURCE: 62 FR 67749, Dec. 30, 1997, unless otherwise noted.

§ 1643.1 Purpose.

This part is intended to ensure that recipients do not use any LSC funds for any assisted suicide, euthanasia or mercy killing activities prohibited by this part.

§ 1643.2 Definitions.

(a) *Assisted suicide* means the provision of any means to another person with the intent of enabling or assisting that person to commit suicide.

(b) *Euthanasia (or mercy killing)* is the use of active means by one person to cause the death of another person for reasons assumed to be merciful, regardless of whether the person killed consents to be killed.

(c) *Suicide* means the act or instance of taking one's own life voluntarily and intentionally.

§ 1643.3 Prohibition.

No recipient may use LSC funds to assist in, support, or fund any activity or service which has a purpose of assisting in, or to bring suit or provide any other form of legal assistance for the purpose of:

(a) Securing or funding any item, benefit, program, or service furnished for the purpose of causing, or the purpose of assisting in causing, the suicide, euthanasia, or mercy killing of any individual;

(b) Compelling any person, institution, or governmental entity to provide or fund any item, benefit, program, or service for such purpose; or

(c) Asserting or advocating a legal right to cause, or to assist in causing, the suicide, euthanasia, or mercy killing of any individual.

§ 1643.4 Applicability.

(a) Nothing in §1643.3 shall be interpreted to apply to:

(1) The withholding or withdrawing of medical treatment or medical care;

(2) The withholding or withdrawing of nutrition or hydration;

(3) Abortion;

(4) The use of items, goods, benefits, or services furnished for purposes relating to the alleviation of pain or discomfort even if they may increase the risk of death, unless they are furnished for the purpose of causing or assisting in causing death; or

(5) The provision of factual information regarding applicable law on assisted suicide, euthanasia and mercy killing. Nor shall §1643.3 be interpreted as limiting or interfering with the operation of any other statute or regulation governing the activities listed in this paragraph.

(b) This part does not apply to activities funded with a recipient's non-LSC funds.

§ 1643.5 Recipient policies and recordkeeping.

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

PART 1644—DISCLOSURE OF CASE INFORMATION

Sec.

- 1644.1 Purpose.
- 1644.2 Definitions.
- 1644.3 Applicability.
- 1644.4 Case disclosure requirement.
- 1644.5 Recipient policies and procedures.

AUTHORITY: Pub. L. 105–119, 111 Stat. 2440, Sec. 505; Pub. L. 104–134, 110 Stat. 1321; 42 U.S.C. 2996g(a).

SOURCE: 63 FR 33254, June 18, 1994, unless otherwise noted.

§ 1644.1 Purpose.

The purpose of this rule is to ensure that recipients disclose to the public and to the Corporation certain information on cases filed in court by their attorneys.

§ 1644.2 Definitions.

For the purposes of this part:

(a) *To disclose the cause of action* means to provide a sufficient description of the case to indicate the type and principal nature of the case.

(b) *Recipient* means any entity receiving funds from the Corporation pursuant to a grant or contract under section 1006(a)(1)(A) of the Act.

(c) *Attorney* means any full-time or part-time attorney employed by the recipient as a regular or contract employee.

§ 1644.3 Applicability.

(a) The case disclosure requirements of this part apply:

(1) To actions filed on behalf of plaintiffs or petitioners who are clients of a recipient;

(2) Only to the original filing of a case, except for appeals filed in appellate courts by a recipient if the recipient was not the attorney of record in the case below and the recipient's client is the appellant;

(3) To a request filed on behalf of a client of the recipient in a court of competent jurisdiction for judicial review of an administrative action; and

(4) To cases filed pursuant to subgrants under 45 CFR part 1627 for the direct representation of eligible cli-

ents, except for subgrants for private attorney involvement activities under part 1614 of this chapter.

(b) This part does not apply to any cases filed by private attorneys as part of a recipient's private attorney involvement activities pursuant to part 1614 of this chapter.

§ 1644.4 Case disclosure requirement.

(a) For each case filed in court by its attorneys on behalf of a client of the recipient after January 1, 1998, a recipient shall disclose, in accordance with the requirements of this part, the following information:

(1) The name and full address of each party to a case, unless:

(i) the information is protected by an order or rule of court or by State or Federal law; or

(ii) the recipient's attorney reasonably believes that revealing such information would put the client of the recipient at risk of physical harm;

(2) The cause of action;

(3) The name and full address of the court where the case is filed; and

(4) The case number assigned to the case by the court.

(b) Recipients shall provide the information required in paragraph (a) of this section to the Corporation in semi-annual reports in the manner specified by the Corporation. Recipients may file such reports on behalf of their subrecipients for cases that are filed under subgrants. Reports filed with the Corporation will be made available by the Corporation to the public upon request pursuant to the Freedom of Information Act, 5 U.S.C. 552.

(c) Upon request, a recipient shall make the information required in paragraph (a) of this section available in written form to any person. Recipients may charge a reasonable fee for mailing and copying documents.

§ 1644.5 Recipient policies and procedures.

Each recipient shall adopt written policies and procedures to implement the requirements of this part.

PARTS 1645–1699 [RESERVED]

Attachment "B"

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Application Information

Organization Name Legal Aid of Arkansas, Inc.
 Category Non-Profit Organization
 Primary Contact Mr. Lee Richardson
 Title Executive Director
 Primary E-mail Address Irichardson@arlegalaid.org
 Primary Address 714 South Main Street
 City Jonesboro
 State Arkansas
 Zip/Postal Code 72401
 Country United States
 Primary Phone 870-972-9224

Additional Addresses

Phone and Fax

Primary	Type	Number
Yes	Business	870-972-9224
No	Fax	870-910-5562
No	Mobile	870-919-1806

E-mail Addresses

Primary	Type	Email Address
Yes	Business	Irichardson@arlegalaid.org
No	Personal	richardson.lee@gmail.com

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

RFP Inquiries and Charts

Performance Area One: Effectiveness in identifying the most pressing civil legal needs of low-income people in the service area and targeting resources to address those needs.

Criterion 1: Periodic comprehensive assessment and ongoing consideration of the most pressing legal needs

Inquiry

Applicant Response

- | | | |
|---|--|--|
| 1 | <p>Discuss the most recent needs assessment process completed. In particular, discuss the data collection methods used (e.g., interviews, surveys, focus groups); the constituent groups who participated in the needs assessment (e.g., courts, community organizations, low-income persons, social service organizations); and the data sources and tools used (e.g., census data, academic studies, intake data, other legal needs studies). In addition, discuss how you have used the results of the needs assessment to promote the program, reevaluate priorities, reallocate resources, and reevaluate advocacy structure.</p> | <p>Legal Aid completed a comprehensive legal needs assessment in 2017. This needs assessment was conducted between June and August 2017 with assistance from AmeriCorps VISTA members and summer interns placed with Legal Aid of Arkansas. The data for this assessment were collected through an online survey of recent Legal Aid clients, in-person interviews with members of vulnerable populations, and an online survey of the communities serving low-income populations in Arkansas. The data collected from these sources was combined and mapped by county to create a balanced, comprehensive picture of the civil legal needs of low-income Arkansans in the Legal Aid service area. In addition, in 2018, Legal Aid completed a series of listening sessions in underserved Delta communities to provide information to and gather information from members of the client community.</p> |
| 2 | <p>Discuss how you identify the legal problems and needs of clients with special access challenges and those who are uniquely or disproportionately affected by specific legal issues including, but not limited to: populations with limited English proficiency (LEP), individuals with disabilities, people experiencing homelessness, individuals with limited literacy, seniors, children, rural residents, individuals who lack transportation, institutionalized individuals, and Veterans.</p> | <p>Legal Aid identifies the legal problems and needs of special populations through outreach to these communities and collaborative partnerships with organizations that serve them. Legal Aid has a robust outreach and education program, where attorneys, legal staff, and VISTAs/law students travel to under served locations and communities to provide direct services and legal education. At these events, Legal Aid often surveys attendees regarding the legal issues facing them and their communities. Legal Aid also works closely with government, social service, and healthcare partners who serve these communities to gather feedback about the most pressing legal needs being reported to providers. For example, Legal Aid has 4 medical-legal partnerships, including one veterans' medical-legal partnership; collaborations with homeless shelters and housing collaboratives; and partnerships with Area Agencies on Aging. Legal Aid advocates communicate regularly with these specialty providers about legal issues or needs and help to train and empower the providers to identify, refer, and advocate on behalf of clients who have legal needs.</p> |
| 3 | <p>List and briefly discuss your service area's most pressing legal needs and problems.</p> | <p>On an individual basis, the legal needs assessment identified that low-income Arkansans are facing the following legal issues most frequently: family law (40 percent of respondents), government benefits (41 percent), consumer law issues (40 percent), health (45 percent), personal/wills (17 percent), housing (16 percent), and employment (18 percent). Systemically, Legal Aid has identified the following legal needs and problems, all of which tie in with Arkansas's high rates of poverty and child poverty. First, Arkansas has a high rate of family law related</p> |

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

issues, including the second highest divorce rate in the nation. Arkansas has several unique issues that lead to housing instability, including its status as the only state without any type of warranty of habitability and the only state to criminalize a tenant's failure to pay rent. Many low-income Arkansans face adverse social determinants to their health, which are the conditions in which a person is born, grows, lives, studies, and works. The CDC estimates that these conditions —known as social determinants of health (SDH)—account for nearly 75 percent of all factors contributing to an individual's current state of health. According to the United Health Foundation's America's Health Rankings, Arkansas ranks 48th in both overall health and in health determinants. Access to the Medicaid expansion is very important in Arkansas, and Legal Aid will continue to work tirelessly to assure all eligible Arkansans are covered. Finally, Arkansas's status as the state with the second highest rate of individuals on parole per 100,000 residents and has a growing number of individuals who are incarcerated, previously incarcerated, and living with criminal records, leads many in our service area to face barriers to reentering society that are related to their criminal records, including barriers to employment, housing, and accessing public benefits.

- 4 Discuss how other legal services providers and resources available in your service area address your client community's most pressing legal needs. For example, state whether other legal aid providers address a need that is not within your priorities, perform extended service or other assistance that augments your work.

There are very few alternative legal service providers in Arkansas, but these alternatives and supporting social services are considered during our legal needs, strategic, and annual planning processes. In terms of legal assistance, free civil legal assistance is provided in very limited situations by the state's two law school legal clinics, the statewide disability rights center, and the statewide ACLU. There are no other unrestricted public interest law firms in the state. In our recent strategic planning process, we included our sister LSC-funded organization and the statewide Access to Justice Commission leaders to ensure we were providing services in the most efficient ways possible.

In light of the limited alternatives for legal services, we have worked to develop powerful partnerships with state agencies, social services, and healthcare providers, to leverage the efforts of individuals serving similar client populations, and to empower these partners to advocate on behalf of their clients and client communities when possible. Through our medical-legal partnerships, reentry programs, and collaborations with consumer credit counselors, we work to ensure Arkansans receive holistic services that give them the greatest chance at overcoming their legal need. To do this, we train community partners to identify and refer issues, we develop streamlined referral systems for individuals with targeted legal issues (and to our partners for supportive services), develop information and self-help materials that can be utilized by the clients and providers at the partnership organizations, and engage in ongoing dialogue with our partners about the greatest legal needs and strategies for addressing them.

- 5 How do you identify pressing legal needs and problems that emerge in between

a. Legal Aid has four substantive work groups, Consumer, Domestic Violence, Housing and Economic Justice. On a

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

comprehensive legal needs assessments?

a) List any new pressing legal needs and problems that you identified within the past twenty-four months.

b) Discuss your response to the legal needs newly identified and any changes you made to your delivery system to address them.

regular basis, the work groups analyze incoming cases to determine whether there are emerging legal issues. The groups also regularly consult with community service partners, governmental, and justice partners; reviews reports from media and advocacy organizations; and track changes in legislation or agency policies that are likely to affect low-income Arkansans.

b. During the past twenty-four months, significant issues have arisen around Arkansas's Medicaid programs, specifically the implementation of work requirements for adult Medicaid recipients and changes to Arkansas home health service benefit allocations. In both of these issues, Legal Aid conducted individual representation to learn more about the issues, and then developed affirmative litigation strategies to address the larger systemic issues.

- F1 Needs Assessment Data
- F2 Legal Needs Assessment Data Collection Methods
- F3 Legal Needs Assessment Data Sources and Tools

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Needs Assessment Data

1. Enter the date when you conducted the most recent comprehensive assessment of civil legal needs facing the low-income population. 8/11/2017 12:00:00 AM

2. Is the future needs assessment planned? No
If yes, enter date when you plan to conduct the next comprehensive assessment.

Legal Needs Assessment Data Collection Methods

	Phone and/or In-person interviews	Surveys	Focus Group	Meetings	Other (Specify)
Low-income persons	Yes	Yes	Yes	Yes	No
Community Organizations	No	Yes	No	Yes	No
Social Services Organization	No	Yes	No	No	No
Courts	No	Yes	No	Yes	No
Other legal services providers	No	Yes	No	Yes	No
Private Bar	No	Yes	No	Yes	No
Program Staff	No	Yes	No	Yes	No
Program Board	No	Yes	No	Yes	No
Other (Specify)	N/A	N/A	N/A	N/A	N/A

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Legal Needs Assessment Data Sources and Tools:

Legal Needs Assessment Data Sources and Tools		
1	Census data and other federal data sets (e.g. demographic data, employment data)	Yes
2	Other legal needs studies (e.g. statewide needs studies, needs studies of similar service areas)	Yes
3	Geographic Information Systems (GIS) mapping	Yes
4	Other information (e.g. other studies conducted by academics, business groups, or nonprofits)	Yes
5	Intake data on cases not accepted	No
6	CMS data regarding case types/ problem codes closed with extended or limited service	Yes
7	CMS data showing geographic location of Applicants for service and clients	Yes
8	Other (Specify)	
		No

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area One: Effectiveness in identifying the most pressing civil legal needs of low-income people in the service area and targeting resources to address those needs.

Criterion 2: Setting goals and objectives, developing strategies and allocating resources

Inquiry

Applicant Response

- | | | |
|----|--|--|
| 1 | Describe how you ensure that your current allocation of resources (funding and staffing) is aligned to address the most pressing legal needs of your service area. | Legal Aid has staff members assigned to each substantive workgroup in order to meet its goals, objectives, and desired outcomes. Currently, each workgroup has at least five members, which typically includes at least three attorneys and one paralegal, as well as intake and administrative representation. These members are spread throughout the Legal Aid service area, in order to provide local assistance to clients. When systemic issues arise or are identified, resources and responsibilities are shifted to allow maximum effort. |
| 2 | Discuss your case acceptance guidelines and how they relate to your goals, objectives, and desired outcomes. | <p>The Legal Aid case acceptance guidelines outline the case types that Legal Aid plans to accept in order to meet its goals, objectives, and desired outcomes. In order to allow workgroup members the flexibility to accept cases that will have the greatest impact on clients and client communities, the case acceptance guidelines have the following criteria which are applied before a case are accepted for extended representation:</p> <ol style="list-style-type: none"> 1. The likelihood of legal success; 2. The amount of program resources required to address the legal problem; 3. The availability of program resources for effective representation; 4. Any particular vulnerability of the applicant; 5. Alternative community and pro bono resources; 6. The seriousness of the legal matter, including its impact on the applicant and whether the matter is common or systemic in nature; and 7. The long-term benefit of representation to the client and/or client community. |
| F4 | Priorities, Goals, Strategies and Desired Outcomes | |
| F5 | Comparing Outcomes to Outputs | |

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Priorities, Goals, Strategies and Desired Outcomes:

Item Type	Item Name	Desired Outcome
Priority:	Assure Access to Safe and Affordable Housing	
Goal:	Maintain the stock of rental housing for low-income individuals	
Strategy (Cases):	Eviction cases including criminal evictions and public housing	300 Landlord/tenant cases handled, including 50 public housing cases. At least 150 tenants are successful in retaining their residence or avoiding unjust judgments.
Strategy (Cases):	Advice and representation in housing discrimination cases	100 Tenants and Homeowners will be assisting with Fair Housing issues
Strategy (Other Services):	Community outreach and education on habitability and fair housing	Do a minimum of ten community education presentations on landlord/tenant law, including presentations to bar associations, client groups, and other service organizations, emphasis placed on Arkansas' Criminal Eviction Statute and lack of warranty of habitability.
Strategy (Cases):	Advice and representation in Section 8, Public Housing, and Federally Subsidized Housing cases	Represent 50 clients in federally subsidized housing cases.
Goal:	Preserve homeownership and prevent family land loss	
Strategy (Cases):	Assist homeowners in Foreclosure cases	20 Foreclosures will be avoided and clients will remain in their homes.
Strategy (Cases):	Probate and estate planning to avoid family land loss in marginalized communities	50 heirs will have their property protected through representation in probate or estate planning
Priority:	Protection from Domestic Violence	
Goal:	Assist victims in breaking free of violent relationships.	
Strategy (Cases):	Represent victims in divorce proceedings	125 Domestic Violence victims will be successfully assisted in Divorce proceedings
Strategy (Cases):	Protective Order Cases	Obtain 400 Order of Protections for survivors of domestic violence
Strategy (Cases):	Assisting survivors of domestic violence with birth certificates, central abuse registry, emancipation, immigration, custody/visitation and paternity.	Referrals or representation in 5 U-Visa applications; 10 emancipation; 12 central abuse registry; 50 custody/visitation; and 20 paternity.
Goal:	Protecting the vulnerable	
Strategy (Cases):	Assist those that are incapacitated by reason of age or infirmity	Assist 35 families in obtaining guardianship of at risk minor children and 25 infirm adults.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Priority:	Economic Justice	
Goal:	Assure access to free, appropriate education.	
Strategy (Cases):	Education cases, including special education.	35 children will be assured full access to appropriate education opportunity, including 20 arising from Medical-Legal Partnerships.
Goal:	Ensure that workers rights are protected.	
Strategy (Cases):	Unemployment, wage theft, and employment discrimination cases	20 workers are successful in their unemployment, wage theft, and discrimination claims.
Goal:	Assure access to healthcare	
Strategy (Cases):	Denials of access to care, charity care denials, denials impacting seniors, and issues with implementation and access under the Affordable Care Act.	30 clients will be afforded access to appropriate health care option
Strategy (Other Services):	Produce materials and make presentations about rights and options under laws and the Medicaid the Patient Protection and Affordable Care Act.	At least 100 individuals will receive education
Strategy (Cases):	Legal Aid will intervene when the State exceeds the allotted 45 days to make determinations regarding Medicaid applications.	At least 25 clients will have their Medicaid applications processed promptly after Legal Aid intervention.
Goal:	Assure proper access to public benefits.	
Strategy (Cases):	State benefit cases	Successfully represent 10 clients in TEA, SNAP, childcare and Work Pays denials, terminations, reductions and/or overpayments.
Strategy (Cases):	Social Security cases	40 individuals will be assisted in Social Security matters, including cessations, terminations, overpayments, survivor benefits, and meritorious disability applications. Over \$400,000 in benefits will be recovered for clients
Strategy (Cases):	Assist Veterans' in obtaining benefits and other civil legal assistance.	At least 20 veterans will be assisted in obtaining veterans or public benefits
Priority:	Consumer Rights	
Goal:	Protect consumer rights and wages and stabilize clients and families	
Strategy (Cases):	Defend lawsuits filed by debt buyers, garnishments, and creditor harassment	100 individuals will be assisted in avoiding unjust judgments, garnishments and collection harassment. Over \$400,000 will be saved for clients.
Strategy (Cases):	Bankruptcy	25 individual clients will be represented by staff and pro bono attorneys, with over \$500,000 in debt avoided

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Strategy (Cases):	Used Car Cases	25 consumers will receive successful assistance in disputes with used car dealers.
Goal:	Protect taxpayers rights.	
Strategy (Cases):	Low income taxpayers' clinic	Assist 75 taxpayers in disputes before Federal and State Agencies, avoiding \$750,000 in tax liability. Over 50% of these clients will speak English as a second language or not at all.
Strategy (Other Services):	Community outreach and education on taxpayer rights and responsibilities	Do a minimum of six presentations about taxpayer rights and responsibilities in the ESL community
Goal:	Reduce recidivism by providing reentry assistance	
Strategy (Cases):	Providing assistance in sealing criminal records	criminal records of over 150 clients will be sealed

Comparing Outcomes to Outputs:

Outcomes - Extended Services

1. Does the applicant collect outcomes data for extended services cases? Yes
2. If yes, do you track:
 - Financial outcomes achieved: Yes
 - Non-financial outcomes achieved: Yes
- 3a. If you responded yes to Question 1, please select how the applicant uses outcome data to improve organizational performance.
 - Evaluating resource allocation: Yes
 - Identifying and supporting shifts in program priorities: Yes
 - Driving decisions on the level of service to provide for particular case types: Yes
 - Tracking emerging client issues: Yes
 - Calibrating advocacy strategy: Yes
 - Tracking and setting organizational goals: Yes
 - Integrating into the organization's strategic planning process: Yes
 - Fundraising to demonstrate the impact of the applicant's work: Yes
 - Assessing staff performance and staff development needs: Yes
 - Other: No
 - Other (please specify): n/a
- 3b. Please provide a brief narrative of how your organization uses extended services outcomes data.

Legal Aid uses extended services outcomes data to monitor success by substantive law type, problem code, geographic location, and advocate. Data is used to determine areas of significant and light penetration, then applied with other factors to explore possible systemic issues negatively impacting the client population. One example of how this data is used occurred in the summer of 2018. An intern mapped all order of protection cases, including success rate, throughout the 31-county service area. We were able to determine areas of emphasis for outreach as well as troubled areas where success rates were below the program average and discuss different approaches within the Domestic Violence workgroup. Similar data has been collected and studied for each work group at various times. Extended services outcome data is also used often in

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

development/fundraising work to show the value of Legal Aid and the bang for buck a small investment can have on the community served.

4a. How frequently does the applicant review outcomes data?

Ad hoc

4b. Please provide a narrative addressing the frequency of your program's review of outcome data in extended services cases. Why do you review with the frequency you do?

Although best practice might be to conduct outcome review on a regular schedule, Legal Aid has yet to develop that practice. Instead, we review data ad hoc, as issues arise or projects are contemplated or developed. Outcome data review is often in response to a perceived problem or grant application/grant reporting.

5. What method(s) does the applicant use to collect outcomes data for extended services cases? (Check all that apply).

- Case management system: Yes
- Client satisfaction mail-in survey: Yes
- Client satisfaction online survey: No
- Follow up text message to clients: No
- Follow up phone calls to clients: No
- Checking court docket: Yes
- In-person one-on-one interviews: No
- Focus group interviews: No
- Other: No
- Other (please specify): n/a

Outcomes - Limited Services

6. Does the applicant collect outcomes data for limited services cases? Yes

7. If yes, do you track:

- Financial outcomes achieved: Yes
- Non-financial outcomes achieved: Yes

8a. If you responded yes to Question 6, please select how the applicant uses outcome data to improve organizational performance.

- Evaluating resource allocation: Yes
- Identifying and supporting shifts in program priorities: Yes
- Driving decisions on the level of service to provide for particular case types: Yes
- Tracking emerging client issues: Yes
- Calibrating advocacy strategy: Yes
- Tracking and setting organizational goals: Yes
- Integrating into the organization's strategic planning process: Yes
- Fundraising to demonstrate the impact of the applicant's work: Yes
- Assessing staff performance and staff development needs: Yes
- Other: No
- Other (please specify): n/a

8b. If yes, in the text box below discuss how you use that data for advocacy strategy and program management.

Legal Aid uses limited services outcome data to inform the effectiveness of outreach and education programs for a variety of programs. A plethora of information is captured for these events, which are often grant driven. One example is a HUD Outreach and Education grant Legal Aid had for the past year. Staff attended over 80 events with realtors, housing authorities, tenants, and other community organizations to raise the level of awareness and compliance with the Fair Housing Act. Dozens of Low Income Taxpayer Clinic outreach and education events were held so that taxpayers, primarily ESL, would know their rights and responsibilities and how to reach out for help. Our Courthouse Helpdesk in the most populous county in the service area reached almost 500 individuals. When these events are well attended and favorable

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

feedback is received, community engagement increases and potential clients are driven to Legal Aid and other sources of help.

9a. How frequently does the applicant review outcomes data? Ad hoc

9b. Please provide a narrative addressing the frequency of your program's review of outcome data in limited services cases. Why do you review with the frequency you do?

Review of outcomes data for limited services cases is generally tied to grant reporting. It is also reviewed by specific office and substantive unit to look for anomalies that need to be addressed with staff by management. For example, in 2018 a review of data determined that over 90% of cases at the Arkansas Children's Hospital MLP were being class as limited services. A deeper review showed that staff at that unit had a misunderstanding of priorities and case acceptance procedures. Now only 70% of those cases are being closed as limited services, more in tune with overall program averages.

10. What method(s) does the applicant use to collect outcomes data for limited services cases?

Case management system: Yes
Client satisfaction mail-in survey: Yes
Client satisfaction online survey: No
Follow up text message to clients: No
Follow up phone calls to clients: No
Checking court docket: No
In-person one-on-one interviews: No
Focus group interviews: Yes
Other: No
Other (please specify): n/a

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area One: Effectiveness in identifying the most pressing civil legal needs of low-income people in the service area and targeting resources to address those needs.

Criterion 4: Evaluation and adjustment

Inquiry

Applicant Response

- 1 Describe your most recent strategic planning process. Specifically address:
- a) staff, management, board, and stakeholder involvement,
 - b) the timeline for completing the strategic plan,
 - c) ways the strategic plan goals are monitored to ensure they are being met, and
 - d) progress in achieving the strategic plan's goals, and objectives (for current plans), or how you plan to measure your progress (for newly implemented plans)

Legal Aid completed its most recent strategic planning process in September, 2015. This plan covers 2016-2020. Legal Aid is gearing up for the next strategic planning process, likely in the last quarter of 2019 and the first three quarters of 2020.

a. A strategic planning committee was formed that consisted of board members and staff members. The committee worked closely with leaders from Legal Aid and partner justice organizations. Staff and board members gave feedback through surveys, meetings, and reviews of drafts and reports. Both staff and board members were asked to submit feedback about the organization's strengths, weaknesses, opportunities, and threats.

b. The current strategic plan covers 2016-2020 with preliminary planning under way for 2021-2025, or alternatively, a possible annual business plan.

c. The 2016-2020 strategic plan includes specific outcomes that are measured to determine progress on goals. During the planning process, data was identified to help Legal Aid measure progress on strategic planning goals, and individuals were made responsible for reviewing this data and evaluating progress on each goal.

d. Legal Aid is currently 75% through its second strategic plan period. Most of the strategic planning goals are being met or furthered through the strategies identified and implemented as part of the plan. A noticeable exception is our pro bono programming, where Legal Aid's goal was to increase the number of pro bono cases, but the over the past six years, Legal Aid of Arkansas's pro bono case closures dropped 35%. Legal Aid has analyzed the causes of this issue, implemented initial changes to address it, and has applied for a pro bono transformation grant to strengthen and modernize its pro bono program.

F6 Applicant's Most Recent Strategic Planning Process

F7 Outcomes Met for Previous Priorities

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Applicant's most recent strategic planning process:

1. Enter the date the most recent strategic plan was adopted by the board of directors. 09/26/2015
2. Enter the date range of the current strategic plan. 01/01/2017 thru 12/31/2021
3. If your current strategic plan is more than five years old, in the text box below summarize your plans for starting a new strategic planning process. If your current strategic plan is less than five years old, state that in one sentence in the text box.
Our current strategic plan is less than five years old.
4. If your current strategic plan is more than five years old, enter the anticipated start for the next strategic planning process. 12/20/2020
5. Has the timeline for your next strategic planning process been set? Yes
6. If yes, enter the date when you plan to start the next strategic planning process and the date when you anticipate completing the process.

Strategic planning start date: 12/12/2020

Strategic planning end date: 09/18/2021

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Outcomes Met for Previous Priorities

First Significant Priority Assure Access to Safe and Affordable Housing

List all of the outcomes projected in the grant application for this priority

300 Landlord/tenant cases handled, including 50 public housing cases. At least 150 tenants are successful in retaining their residence or avoiding unjust judgments. 50 Tenants and Homeowners will be assisting with Fair Housing issues. Do a minimum of six community education presentations on landlord/tenant law, including presentations to bar associations, client groups, and other service organizations, emphasis placed on Arkansas' Criminal Eviction Statute and lack of warranty of habitability. Represent 25 clients in federally subsidized housing cases. 40 Foreclosures will be avoided and clients will remain in their homes. 50 heirs will have their property protected through representation in probate or estate planning.

State whether, and the extent to which, the projected outcome(s) for this priority were met.

Legal Aid has handled 1,148 Landlord/Tenant cases to date, including 86 Public Housing cases. To date, 75 tenants have been successful in retaining their residence or avoiding unjust judgments. We have already assisted 101 tenants and homeowners with Fair Housing issues, more than double the projected number, as Legal Aid has shifted priorities to Fair Housing starting in 2018. We have done over 100 community education presentations on housing law during the grant period. We provided advice or representation to 166 clients in federally subsidized housing cases. We only had 75 foreclosure intakes during the grant period, much fewer than had been anticipated, and seven foreclosures were prevented, fewer than the 40 anticipated. We assisted 176 people with probate and estate planning.

If outcomes were not met, briefly explain why

With six months to go in the grant cycle, Legal Aid has only reached 50% of the projected goal in helping tenants be successful in retaining their residence or avoiding unjust judgments. This is partially because of a significant shift of resources to the Fair Housing project over the past 15 months. The foreclosure rate in Arkansas reduced substantially during the grant term. Arkansas ranked 43rd in foreclosures with only 1/4,890 homes being in foreclosure, and the rate reduced by 7.14% between 2017 and 2018. The demand for assistance was simply not present.

Second Significant Priority Protection from Domestic Violence

List all of the outcomes projected in the grant application for this priority

125 Domestic Violence victims will be successfully assisted in Divorce proceedings Obtain 400 Order of Protections for survivors of domestic violence. Referrals or representation in 5 U-Visa applications; 10 emancipation; 12 central abuse registry; 50 custody/visitation; and 20 paternity. Assist 50 families in obtaining guardianship of at risk minor children and 25 infirm adults.

State whether, and the extent to which, the projected outcome(s) for this priority were met.

We obtained a divorce for 507 survivors of domestic violence and obtained an Order of Protection in Court for 1,207 people. We provided representation in 79 visitation/custody cases and handled 121 adult and 121 minor guardianship cases. We assisted 28 clients with paternity matters.

If outcomes were not met, briefly explain why

We only handled 6 central abuse registry cases, half of those projected. The cases were not as high on the priority list as in the past. We only handled one emancipation as we removed this from priorities except in exceptional circumstances. We only handled one U-Visa as those cases are now most often referred to other providers in the community.

Third Significant Priority Economic Justice

List all of the outcomes projected in the grant application for this priority

30 children will be assured full access to appropriate education opportunity, including 15 arising from Medical-Legal

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Partnerships. 30 workers are successful in their unemployment, wage theft, and discrimination claims. 30 clients will be afforded access to appropriate health care option. At least 75 clients will have their Medicaid applications processed promptly after Legal Aid intervention. Successfully represent 10 clients in TEA, SNAP, childcare and Work Pays denials, terminations, reductions and/or overpayments. 40 individuals will be assisted in Social Security matters, including cessations, terminations, overpayments, survivor benefits, and meritorious disability applications. Over \$400,000 in benefits will be recovered for clients. At least 20 veterans will be assisted in obtaining veterans or public benefits.

State whether, and the extent to which, the projected outcome(s) for this priority were met.

Legal Aid handled 390 education cases during the reporting period, vastly exceeding expectations. 85 of these cases had positive impactful outcomes, almost half being from the MLP setting. Over 200 clients were afforded access to the appropriate healthcare option. We assisted 44 individuals in successful resolutions of social security matters.

If outcomes were not met, briefly explain why

To date, we have only had 13 successful wage claim/unemployment cases during the reporting part. This is in part because of economic justice group resources being shifted to intense litigation surrounding Medicaid expansion and inhome care resources. We had 36 clients that had their Medicaid applications processed promptly after Legal Aid intervention but scores more were assisted in this realm through outreach and education. Only 12 veterans were successfully assisted in obtaining benefits so far during the period. We may reach the goal of 20 prior to the conclusion of the grant cycle.

Fourth Significant Priority Consumer Rights

List all of the outcomes projected in the grant application for this priority

100 individuals will be assisted in avoiding unjust judgments, garnishments and collection harassment. Over \$400,000 will be saved for clients. 50 individual bankruptcy clients will be represented by staff and pro bono attorneys, with over \$500,000 in debt avoided. 36 consumers will receive successful assistance in disputes with used car dealers. Assist 75 taxpayers in disputes before Federal and State Agencies, avoiding \$750,000 in tax liability. Over 50% of these clients will speak English as a second language or not at all. Criminal records of over 150 clients will be sealed.

State whether, and the extent to which, the projected outcome(s) for this priority were met.

We assisted 125 individuals with avoiding unjust judgments, garnishments and collection harassment, saving \$470,377 for clients. We assisted 427 bankruptcy client with 40 discharges and \$1,447,530 debt avoided for clients. We assisted 45 consumers in successful disputes with used car dealers. We assisted 450 taxpayers in disputes with Federal and State agencies, avoiding or recovering \$3,020,766 for tax payers, including 92 who speak English as a second language. We have so far successful sealed 117 criminal records and should meet the goal by the end of the grant period.

If outcomes were not met, briefly explain why

n/a

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Two: Effectiveness in engaging and serving the low-income population throughout the service area.

Criterion 1: Dignity and sensitivity

Inquiry

- 1 Provide a specific and detailed description of your current intake process. If the process differs by office or unit, provide a description of each office's or unit's process. In your response address:
- a) the modes of access that are available to prospective clients (e.g., walk-in, telephone, online) and any policies or protocols for each mode,
 - b) any elements of triage,
 - c) the process for incoming and outgoing referrals, including how you refer to and receive referrals from other legal aid providers,
 - d) any policies for emergency requests for assistance, and
 - e) the steps taken to ensure the intake process is efficient, effective, client centered, and well managed

Applicant Response

a. Legal Aid conducts intakes through our telephone helpline, online intake form, through written referrals from partners, and by walk-in or outreach.

The helpline is open from 9 a.m. to 11 a.m. and 1 p.m. to 3 p.m. Monday through Thursday, with evening hours on Tuesdays from 5:15 p.m. to 7:15 p.m. Walk-in intakes are accepted during non-helpline hours: 11:00 – 11:30a.m. and 3:00p.m. – 4:30p.m. Monday through Thursday and all day Friday. Applicants with limited English proficiency or other extenuating circumstances may be accommodated outside those hours. Legal Aid's online intake system allows applicants to self-screen and submit a request for assistance at any time. Online applicants receive a callback from Legal Aid within 24-48 business hours. Further, Legal Aid processes referrals from partner organizations, which are processed much like online applications and called back within 24-48 business hours.

b. Legal Aid incorporates all advocates and offices into the intake process. Regardless of intake type a staff member conducts an eligibility screening. This is typically done by an intake specialist, though an attorney may screen for eligibility during outreach or if an intake specialist is not available for a walk-in intake. Once the applicant is determined eligible based on financial guidelines, case type, citizenship/alien eligibility status, conflict of interest, etc. the legal interview is conducted by an attorney or paralegal. For helpline this is done by transferring the caller to one of four specialized call queues - Housing, Consumer, Domestic Violence, or Economic Justice. Online intakes and referrals are entered into the case management system and called back during helpline hours and transferred to the appropriate call queue for a full legal interview. Walk-in applicants are interviewed by an on-site attorney or paralegal after eligibility is determined.

When a legal interview is complete clients often receive immediate legal advice or brief services. They may also receive immediate feedback on whether his case is likely to be accepted for extended services. Each workgroup has an advocate of the day (AOD) who reviews cases of paralegals and less-experienced attorneys. The AOD then provides feedback to the legal interviewer about what advice or brief service to provide to the client if the case does not meet extended eligibility guidelines. If a case is accepted for extended services the AOD will assign the case to an attorney within that workgroup taking into account geography, area of expertise, and workload.

c. Legal Aid has a standing policy not to require a referral from other legal aid organizations. Out-of-program referrals are a burden to clients and a barrier to accessing services. If an applicant has a qualifying problem in our service area we

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

will accept an application just as we would from any other applicant. If another program requires a referral for an applicant living within our service area an intake worker copies our client intake and sends a copy to the appropriate program by fax, email, or mail.

During the intake process there are screening questions to identify specific problems, which prompt staff to refer clients to other sources of assistance, such as applying for public benefits. We also provide informal referrals to other sources of assistance for ineligible applicants.

d. If a case is an emergency the person conducting the legal interview will flag the case for the AOD by call or email or will contact the person likely to be assigned the extended services case to ensure prompt action is taken on the case.

e. Legal Aid's telephone vendor provides a service called Contact Center. This feature allows the Helpline Manager to continually monitor hold times and identify staffing needs. This feature also provides historical data including hold times by call queue and call volume by date and time. Client satisfaction surveys also solicit information about the intake process. Together this data is used to manage staffing. Intake workers have regular meetings with the Helpline Manager to ensure understanding of guidelines and to ensure compliance. New staff are trained on telephone interviewing techniques.

2 Intake System Staffing:

a) Identify the intake staff positions (e.g., attorney, paralegal, supervisory, screener) and describe the functions of the staff positions involved in intake.

b) How many full-time equivalent positions are devoted to applicant eligibility screening, for each staff position noted above?

c) What is the system of oversight for intake functions and access at your program?

d) What actions have been taken to be responsive to the LEP client community? What is the percentage of applicant's bilingual intake FTE staff compared to the percentage of the low-income LEP client community?

a. The helpline delivery system involves all legal advocates on all workgroups. Legal Aid has five intake specialists, plus two interpreters, who conduct eligibility screenings. Once the eligibility screening is complete eligible, a legal interview is conducted by one of 25 attorneys or three paralegals. These legal interviews are conducted based by a workgroup member who has specialized knowledge in that area of law and is best suited to give immediate advice and identify additional legal problems. Workgroups are also able to identify recurring or systemic problems by focusing on particular problem types and having all group members involved with intake. All Legal Aid attorneys staff at least one two-hour shift per week. The Deputy Director ensures the helpline is appropriately staffed, ensures quality, and answers any questions that may arise about the intake process.

b. Approximately 2.5 FTE equivalents are conducting applicant eligibility screenings when considering the hours helpline is open.

c. Oversight is provided by the Deputy Director, who serves as helpline manager and oversees the technological and administrative functions of the helpline. The Deputy Director provides real-time monitoring of calls and staffing and consults with staff if eligibility is uncertain. Advocates of the Day (AOD) review the quality of legal interviews and legal advice given by newer attorneys or communicated by non-attorney advocates, makes case acceptance decisions on cases that have more complex legal issues, and acts as a subject matter expert to any other helpline staff that day. Once the AOD for a workgroup determines that a case should be referred, these

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

cases are handled by the pro bono team under the supervision of the workgroup leaders. Any issues regarding intake, case acceptance, or referrals are discussed during weekly workgroup meetings.

d. Legal Aid has two interpreters for LEP clients - one Spanish, one Marshallese. Legal Aid's interpreters conduct eligibility screenings and interpret during legal interviews. There are also two Spanish-speaking attorneys and a Tagalog-speaking staff member. In the client-eligible community, approximately eight percent speak Spanish or Marshallese and approximately four percent of our FTE staff are bilingual and dedicated to interpretation.

3 Briefly describe the initial and ongoing intake training you provide to staff.

All staff are oriented on LegalServer and intake upon hiring by a trained staff member. One of the main advantages of LegalServer is that it has made the need for an external handbook less necessary. The system uses branch logic and requires fields in ways that make it less necessary to consult something outside the system. It also allows for inline and hover instructions to explain what information is needed and provide links to outside resources such as the CSR handbook. Canned case questions also help facilitate legal interviews for less experienced advocates.

Intake staff have meetings and are part of an email list to refresh staff knowledge on various parts of intake and train on new policies or procedures. Individual workgroups and AODs provide feedback and training on substantive law to attorneys and paralegals.

4 Intake System Evaluation:

a) Describe any internal evaluation of your intake system in the last twenty-four months.

a. Legal Aid continually evaluates and modifies the intake process as needed. This includes live monitoring of call queues, review by work groups, and client satisfaction surveys.

b) Describe any external evaluation of your intake system conducted in the last twenty-four months.

b. None.

c) Identify any notable changes that you made to your intake system in the last twenty-four months.

c. The ongoing evaluation process has led to temporary modifications such as case-type specific intake lines. For example, when the Arkansas Department of Human Services failed to timely process Medicaid applications resulting in non-coverage for large numbers of client-eligible people Legal Aid established a Medicaid-specific line to process those applications.

F8 Intake

F9 Days and Hours of Intake by Type

F10 Intake Policies and Procedures

F11 Intake System Technology

F12 Intake Methods: Relative Percent and Time Elapsed Before Receiving Service

F13 Intake Evaluation

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Intake:

1. Do you have a centralized intake system? Yes
2. Do you have a coordinated intake system? Yes
3. Do you have a decentralized intake system? No

Days and hours of intake by type:

	Day(s) of week	Hours of the day	Percent of Intake
Telephone intake	4	5	65
Walk-in intake	5	2	11
In-person appointment intake	0	0	0
Internet/Online intake	7	24	11
Outreach intake	0	0	2
Other type(s) of intake: referrals	5	8	11

Intake Policies or Procedures:

Type of Intake	Yes/No	Date last revised
1. Do you have written policies or procedures for telephone intake?	Yes	05/02/2019
2. Do you have written policies or procedures for walk-in intake?	Yes	04/02/2019
3. Do you have written policies or procedures for in-person appointment intake?	No	
4. Do you have written policies or procedures for internet/online intake?	Yes	11/01/2018
5. Do you have written policies or procedures for outreach intake?	No	
6. Do you have written policies or procedures for other type(s) of intake (please specify the other types of intake).		
Referral	Yes	08/03/2018

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Intake System Technology:

1	How many phone numbers do you publish for intake in your service area(s)?	1
	a. Can calls to an intake number be answered at more than one location?	Yes
2	What is the maximum number of calls your phone system can receive at the same time?	999
3	Does your phone system have the capacity for voice mail for intake calls?	Yes
4	Does your phone system have the capacity for automated attendant technology for intake?	Yes
5	Does your phone system have automatic call distribution?	Yes
	a. If so, can callers self-direct their call?	Yes
	b. If callers can self-direct, can they self-select to leave a message?	Yes
6	Does your phone system offer callers the choice to receive a callback?	Yes
	a. If yes, does your system return the call automatically?	No
7	Does your phone system include computer telephony integration?	Yes
8	Does your phone system include an interactive voice response feature?	No
9	Does your phone system have call routing by language, substantive and/or geographic area?	Yes
10	Does your system have the ability to serve persons with speaking or hearing disabilities through access to TTY or relay service or other mechanism (e.g.; email or text messaging)?	Yes
11	Does your phone system have the capacity to review wait times in queue, dropped calls?	Yes
12	Does your phone system have the ability to provide recorded information to callers while waiting or after hours?	Yes
13	Does your program provide an online intake option for prospective clients to apply for services?	Yes
	a. If yes, is the data electronically transferred into your CMS?	Yes
	b. If yes, does the system screen out users with legal issues that are outside the program's priorities or who are clearly ineligible?	Yes
	c. If yes, does the system route users to other providers or online resources?	Yes

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Intake Methods: Relative Percent and Time Elapsed Before Receiving Service

Telephone intake

Percentage of Intake applications for this method: 65 %

How much time elapses between the initial phone call until the prospective client..

First speaks to an intake worker?	2	Minutes
Has a substantive interview?	10	Minutes
Receives counsel and advice?	30	Minutes
Receives limited action and/or referral assistance? (for cases in which extended service will not be provided)	2	Days
Receives notice that their case was assigned to a case handler for extended representation or further investigation and evaluation?	2	Days

Walk-in intake

Percentage of Intake applications for this method: 11 %

How much time elapses between when the prospective client arrives at the office until the prospective client..

First speaks to an intake worker?	5	Minutes
Has a substantive interview?	15	Minutes
Receives counsel and advice?	45	Minutes
Receives limited action and/or referral assistance? (for cases in which extended service will not be provided)	2	Days
Receives notice that their case was assigned to a case handler for extended representation or further investigation and evaluation?	2	Days

In-person appointment intake

Percentage of Intake applications for this method: 0%

How much time elapses between when the prospective client arrives at the office until the prospective client..

First speaks to an intake worker?		
Has a substantive interview?		
Receives counsel and advice?		
Receives limited action and/or referral assistance? (for cases in which extended service will not be provided)		
Receives notice that their case was assigned to a case handler for extended representation or further investigation and evaluation?		

Internet/Online intake

Percentage of Intake applications for this method: 11%

How much time elapses between when the person first submits a request on-line until the prospective client..

First speaks to an intake worker?	3	Days
Has a substantive interview?	3	Days
Receives counsel and advice?	3	Days
Receives limited action and/or referral assistance? (for cases in which extended service will not be provided)	5	Days
Receives notice that their case was assigned to a case handler for extended representation or further investigation and evaluation?	5	Days

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Outreach intake

Percentage of Intake applications for this method: 2%

How much time elapses between the initial contact until the prospective client..

First speaks to an intake worker?	5 Minutes
Has a substantive interview?	15 Minutes
Receives counsel and advice?	45 Minutes
Receives limited action and/or referral assistance? (for cases in which extended service will not be provided)	2 Days
Receives notice that their case was assigned to a case handler for extended representation or further investigation and evaluation?	2 Days

Other type(s) of intake

Percentage of Intake applications for this method: 11%

Describe the Other Type(s) of intake: referral

How much time elapses between the initial contact until the prospective client..

First speaks to an intake worker?	1 Days
Has a substantive interview?	1 Days
Receives counsel and advice?	1 Days
Receives limited action and/or referral assistance? (for cases in which extended service will not be provided)	3 Days
Receives notice that their case was assigned to a case handler for extended representation or further investigation and evaluation?	3 Days

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Intake Evaluation:

1. Have you conducted an internal evaluation of your intake system in the last twenty - four months?	No
2. If you have not conducted an internal evaluation of your intake system in the last twenty - four months, provide the date of the last internal evaluation.	01/31/2012
3. Has there been an external evaluation of your intake system in the last twenty-four months.	No
4. If there has not been an external evaluation of your intake system in the last twenty-four months, provide the date of the last external evaluation.	07/15/2013

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Two: Effectiveness in engaging and serving the low-income population throughout the service area.

Criterion 2&3: Engagement with low-income population & Access and utilization by the low income population

Inquiry

Applicant Response

1 Describe your outreach activities to major segments of the low-income population in the service area during the last twenty-four months, and the activities you plan on performing next year. Discuss how you develop and target your outreach activities to reach the population(s) with the legal issues that you have identified in your priorities. How do you determine the number and scope of outreach activities annually? Discuss whether you keep track of the number of participants at outreach events. Discuss your participation at meetings of community groups and service providers.

Over the past twenty-four months, legal aid has conducted outreach and community education efforts that have reached over well over 100,000 individuals, in person and virtually. Our most significant new outreach effort in the past twenty-four months is an increased social media presence. From January 1, 2017, until today, we have seen a 170% increase in Facebook “likes”, from 997 to 2,696. We have used Facebook to effectively educate Arkansans on the Medicaid expansion., posting videos throughout 2018 that garnered over 100,000 views while also effectively live streaming several educational events hosted by Legal Aid surrounding Medicaid and Low-Income taxpayers issues. Also on the Medicaid front, Legal Aid did door to door canvassing in targeted communities along with partners from the National Health Law Program and Southern Poverty Law Center, and we distributed 6,500 “Changes are coming to Arkansas Works” flyers, primarily to community partners and direct mailing to service providers.

Legal Aid has developed a dynamic website, at www.arlegalaid.org that explains the program services and gives regular updates on legal topics and Legal Aid successes. Prospective applicants can apply for legal services or access the statewide library of self-help information and forms on the website. Legal Aid continues its physical presence in the community, attending community fairs and events, and staffing regularly scheduled outreach events at the offices of community partners, including community health centers, libraries, and social service agencies. During the last year, Legal Aid has exhibited at the annual Community Action Agency Conference, Federally Qualified Health Center Conference, Home Visiting Network Conference, and Southwest NAHRO Conference. The Fair Housing project distributed over 6,700 brochures in three languages covering a variety of Fair Housing issues, completed videos on the Fair Housing Act and published them online, also in three languages, and gave 83 Fair Housing presentations throughout Arkansas reaching 1,227 people. For the upcoming year, Legal Aid plans to continue these outreach activities and become more focused on targeted outreach and education surrounding Adverse Childhood Experiences and how those impact the client population in the Delta and Northwest Arkansas. Legal Aid currently has a VISTA member developing an annual communications plan and outreach plan that is tailored to address each substantive workgroups targeted priorities. Legal Aid currently participates in several community coalitions and community partnerships, and staff attends regular consortium and partnership meetings in their substantive areas of focus.

2 If you have relocated your office(s) in the past twenty-four months, please explain why

We relocated our office in Helena-West Helena and Harrison since the last grant application was submitted, but both moves

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

you chose to locate your office(s) where they are, including geographic proximity to diverse client communities in the service area, courts, administrative agencies, other social service providers and public transportation.

were more than 24 months ago. In each situation, the office was relocated within the same general area of the community to more appropriate, secure and affordable accommodations. Both offices are located in communities that are geographically isolated in the Legal Aid service area and serve vital roles in our service delivery model. We recently leased a new Fair Housing office in Little Rock, Arkansas, the center of the state, to serve as headquarters for our statewide fair housing project. This location will allow staff to be anywhere inside Arkansas within three hours.

- 3 Discuss the extent to which your offices are reasonably accessible to the client community, including physically challenged persons, and persons with speaking or hearing disabilities. If your offices are not reasonably accessible, discuss what is being done to improve access.

All Legal Aid offices are reasonably accessible to the community served. Only the West Memphis, Springdale, and two Little Rock offices are near public transportation but all offices have ample free parking available. Each office is accessible to physically challenged individuals. The Helena-West Helena office does not have an elevator to the second floor but Legal Aid has also secured a first-floor office in which to meet with clients.

F14 LEP Plan and Components

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

LEP Plan and Components:

LEP Plan and Components		
1	Does Applicant have a written LEP plan	Yes
2	Does the LEP plan enumerate:	
	a. methods for determining the prospective client's need for interpretation and translation services	Yes
	b. strategies for recruiting and hiring bilingual staff or for language skills training of existing staff	No
	c. use of language translation and interpretation services when bilingual staff is not available	Yes
	d. procedures for training staff on the Applicant's LEP policy, how to access language services, and how to work with interpreters	Yes
	e. a process for translating all vital program documents into the languages of the LEP communities in the Applicant's service areas	Yes
	f. outreach strategies for dissemination of information about the availability of free interpretation and translation services to the members of the LEP client community that are seeking legal assistance	Yes
	g. steps for continued oversight and updating of LEP policies and procedures including assigned responsibility for such oversight and updating	Yes

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Three:

Criterion 1a: Legal Representation - Applicant's capacity to carry out its work

Inquiry

Applicant Response

1 Discuss your staff's legal experience and expertise and how staff stays aware of developments in legal services delivery. Address your staff's expertise as it relates to your priorities, and how you use specialized legal expertise (both within and outside the program) to provide direct legal representation, including litigation of complex issues.

Legal Aid staff is assigned to a substantive focus area, and are provided training and CLE opportunities to develop their substantive expertise. Each workgroup has a mix of seasoned attorneys and younger attorneys and fellows, which allows for ongoing learning and development. The workgroups all participate in national taskforces or substantive focus groups, and staff and attorneys also regularly attend Equal Justice Works and NLADA national conferences to learn about developments in legal services delivery. All new attorneys are allowed to attend NITA Trial Practice training during their first three years at Legal Aid. The Consumer group sends one or two attorneys to the NCLC conference annually, while the Housing group attends national training annually. The Economic Justice group attends NHeLP national training each December as well as Southeast Public Benefits Task Force Group meetings twice each year. The domestic violence group always sends attorneys to the day-long Arkansas Bar Association Family Law training block at the annual bar meeting. The domestic violence workgroup includes attorneys with decades of family law expertise, the consumer law workgroup is led by a legal aid attorney with nearly thirty years of experience, and the housing and economic justice workgroups are led by newer attorneys, with over seven years of experience each, who have already had notable success in state and federal litigation. These two workgroups are staffed with other seasoned attorneys and paralegals. In addition to the internal expertise of its attorneys, Legal Aid enjoys a supportive pro bono community, which provides technical assistance, cocounseling, and training on complex cases and issues that are outside the staff's expertise. Legal Aid attorneys also regularly receive technical assistance on cases and legal issues from regional and national legal aid partners and specialized substantive programs such as NHeLP or NHLP.

2 Describe the research materials and tools available to your staff (e.g., online legal research, libraries, poverty law manuals, practice manuals) and knowledge management (e.g., brief and form banks, substantive listservs, document management such as HotDocs, and other web-based resources).

Legal Aid currently has a contract with Thomson Reuters Westlaw for online legal research. Attorneys and paralegals have unique user logins. In addition to this resource, all attorneys have access to Fast Case online research by way of membership in the Arkansas Bar Association. With said bar membership, regular case note updates on the latest Arkansas Appellate Court decisions are also available. The Legal Aid website has an abundance of research resources, including the Poverty Law Practice Manual, Consumer Law Resource Center, Housing Resource Center, and topical listservs. A number of pleadings and client letters are available in HotDocs format. Google Docs is used for virtual file sharing and storage between all offices, with Helpline documents and training and human resources material shared and stored on this platform. Legal Aid also maintains the full NCLC library and online subscriptions to Fair Housing and other Consumer law resources.

F15 Training

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Training:

Training						
	Type of Training	Position Category				
		Attorneys	Paralegals	Managers/ Supervisors	Administrators	Support Staff
1	Advocacy Skills	Some (less than 50%)	Many (50% or more)	All (100%)	None	None
2	Substantive Law	All (100%)	All (100%)	All (100%)	All (100%)	All (100%)
3	Technology	All (100%)	All (100%)	All (100%)	All (100%)	All (100%)
4	Management	Some (less than 50%)	None	Some (less than 50%)	Some (less than 50%)	None
5	Leadership	Some (less than 50%)	None	Some (less than 50%)	Some (less than 50%)	None
6	Cultural Competency	None	None	None	None	None
7	Foreign Language	None	None	None	None	None
8	Other (specify) Compassion Fatigue	All (100%)	All (100%)	All (100%)	All (100%)	All (100%)

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Three:

Criterion 1b: Legal Representation - Applicant systems, approaches, and techniques used in representation

Inquiry

Applicant Response

1 Describe your case assignment process.

Once an attorney completes a client interview an Advocate of the Day (AOD) from each workgroup reviews the case. The AOD applies Legal Aid's case acceptance priorities determine whether to provide limited services or extended representation. Legal Aid's AOD also determines if the case is appropriate for pro bono placement.

When evaluating a case for extended representation an AOD considers: the likelihood of legal success; the amount of program resources required to address the legal problem; the availability of program resources for effective representation; any particular vulnerability of the applicant; alternative community and pro bono resources; the seriousness of the legal matter, including its impact on the applicant and whether the matter is common or systemic in nature; and The long-term benefit of representation to the client and/or client community.

When a case meets priorities for extended services the AOD transfers the case to a workgroup member based on geographic location, specialty, and workload. Non-priority cases are provided advice or brief services by the person who conducted the legal interview.

2 Discuss your provision of limited service. Address:
 a) how you evaluate the provision of limited services, and
 b) any notable changes you made to how you provide limited services based on the results of internal or external evaluations conducted in the last 12 months.

a. Legal Aid provides limited services to eligible clients if their case does not meet case acceptance priorities for extended services. Once a legal interview is conducted by an attorney or paralegal each client not accepted for extended services receives advice or brief services. Brief services are provided on a case-by-case basis depending on the type of legal problem, the ability of the client proceed pro se, and the amount of time required to resolve the case. Brief services may include pro se documents, limited scope representation, or contact with a third-party on the client's behalf. Legal Aid tracks the case outcomes from limited service cases, such as whether the client's goal was met and any financial outcomes.

b. There have been no notable changes to Legal Aid's provision of limited services made as the result of evaluations in the last 12 months other than changes to case acceptance priorities.

- F16 Legal Work Management
- F17 Casehandling Protocols
- F18 Case Development Activities

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Legal Work Management:

Legal Work Management			
	Method and Resources		Where applicable, specify time period (e.g., monthly, weekly)
1.	Preparation of opening and closing memoranda	Frequently	Closing memos are always done, opening memos are done primarily on complex cases.
2.	Accompanying newer attorneys to hearings, trials, depositions, oral arguments, etc.	Frequently	This is part of our New Attorney Training Protocol.
3.	Review of written work (e.g., briefs, significant memoranda, and pleadings)	Frequently	Major written work is reviewed by workgroup leaders.
4.	Case acceptance meetings	Always	Workgroups have weekly meetings to discuss cases that are not clearly within priorities or have complex issues. More mundane cases are accepted for extended services by an advocate of the day without a formal meeting.
5.	Case reviews with staff	Frequently	Supervisors frequently discuss cases and case strategy with staff. Further, we conduct bi-monthly open case reviews. All case handlers are required to turn in an open case review to their workgroup leader every 60 days.
6.	Electronic case reviews	Frequently	Supervisors evaluate staff workload, progress on cases, legal work, etc. based on the data collected in our case management system.
7.	Mooting appellate arguments	Rarely	We've had few appellate cases involving oral argument. When those arise they are mooted within the work group or partners such as a law school legal clinic.
8.	Supervisor review of files at time of closing	Always	Regional manager review all extended services cases being closed except for LITC and PAI, which are reviewed by the Executive Director.
9.	Availability of a litigation fund (e.g., for depositions, expert witnesses, process servers, trial aids, interpreters, and translators)	Always	Legal Aid budgets for this annually.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Casehandling Protocols:

	Casehandling Protocols	
1	Applicant-wide or office systems for calendaring and tickling dates	Yes
2	Case file coverage for vacation and other case handler absences	Yes
3	File maintenance	Yes
4	Timely case closings	Yes
5	Capturing case outcome(s)	Yes
6	Case handling standards	Yes

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Case Development Activities:

Case Development Activities		
	Activity	
1	Complex litigation in Federal or state court	Frequently
2	Written discovery in the course of litigation (interrogatories, requests for admission, etc.)	Frequently
3	Depositions	Frequently
4	Use of expert witnesses	Rarely
5	Motions accompanied by written memoranda	Frequently
6	Jury trials	Rarely
7	Appeals to appellate courts	Frequently
8	Enforcement of judgments	Frequently

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Three:

Criterion 1c: Legal Representation - Legal representation and resources

Inquiry

Applicant Response

1 Describe your advocacy structure and methods. Discuss:

a) the way(s) in which you deploy your advocates, e.g., specialized units, work groups, generalists, by office, by region,

b) your supervisory structure (supervision by office managing attorneys or practice group supervisors), and

c) how your advocacy structure supports advocacy that can achieve benefits not only for individual clients but for broader communities in the service area.

a. Legal Aid advocates are grouped into four main workgroups--domestic violence prevention, consumer protection, housing justice, and economic justice (which includes public benefits, employment, and education).

b. Each workgroup has a leader who oversees the groups' work, which includes:

- developing case acceptance priorities and making case acceptance decisions in their substantive areas;
- identifying potential impact issues to be addressed
- distributing statewide and national legal and legislative updates;
- developing educational, outreach, interviewing, and litigation tools to be used throughout the program;
- training all staff, including intake workers, of legal issues;
- partnering with other community groups and taskforces working on these issues.

Advocates are specialists, focusing on their workgroups' area, but are trained in issue spotting and advocacy in other areas. For example, all advocates are trained to represent survivors of domestic violence in orders of protection, and all domestic violence focused attorneys are trained to identify and refer consumer finance, housing, or benefits issues that may be creating barriers for a survivor attempting to flee abuse.

c. Over the past seven years, Legal Aid has undertaken significantly more impactful and affirmative litigation efforts. In addition to developing case acceptance priorities, each workgroup develops areas of impact focus during its annual priority setting process. The workgroups engage in "campaigns," which may include education to increase awareness about the issue and increase calls to legal aid from potential clients, direct representation for numerous clients to gain a greater understanding of the issue, and strategic or affirmative litigation in state or federal court.

2 Discuss your overall goals for advocacy in the next year. Are there particular areas of emphasis, legal issues that will be addressed, strategies to overcome economic or other barriers confronting the eligible population, etc.?

Over the next year, Legal Aid plans to continue to strengthen its strategic litigation efforts to have the greatest impact on the causes and effects of poverty. Our housing group plans to continue building its fair housing project, which began in January 2017 with a limited fair housing testing program. In 2019, HUD awarded Legal Aid a Fair Housing Initiative Project-Private Enforcement grant. With this funding, Legal Aid will expand its testing program and enforce meritorious claims through administrative complaints and litigation, in order to address the barriers to housing stability that can often leave client communities in poverty.

Our consumer workgroup plans to increase recoveries for clients, continue partnerships that increase access to legal services for limited English-speaking populations, and continue partnerships with those working with reentry and homeless populations on barriers to housing and employment.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

The consumer group plans to emphasize litigation and advocacy efforts in the following areas: systemic racism in the consumer marketplace, salvage vehicle sales and car sales to limited English populations, predatory lending in the pay day and car loan context, civil rights issues in the context of hospital collections, racial discrimination in the repossession context, sealing in the context of Act 680 which becomes effective July 24, 2019, fair debt and fair credit issues, bankruptcy to avoid loss of wages and drivers licenses, avoiding the loss of drivers licenses due to tort judgments and high criminal fines. Finally, the consumer group plans to advocate with insurance companies to pay claims for low-income claimants in the Delta and representing elderly who are victimized by bad home repair, home solicitation, and theft by family or caregivers. Student loans continue to be part of our work and there are compelling issues we are working on in the servicing and collection context.

The low-income taxpayer project will continue to drive taxpayers to free filing options online and at VITA sites with the goal of increasing on-time, complete tax filing compliance.

Legal Aid's economic justice workgroup plans to continue helping people on Medicaid retain their health insurance. After Legal Aid's victory at the federal district court level invalidating the Medicaid work-reporting requirements, the Department of Justice appealed to the DC Circuit Court of Appeals. We are representing our clients there. In addition, around 16,000 of the 18,000 people terminated from health insurance due to the work requirements have still not signed back up for coverage. Legal Aid will continue our public education efforts so that the people affected know that they can regain insurance. Also, when the state imposed the work requirements on Medicaid, the state increased the paperwork burdens for thousands of other Medicaid recipients. At least another 30,000 people lost health insurance, mostly due to so-called "churn." Legal Aid will continue trying to help clients navigate the extra paperwork hurdles and spread the word about how people can keep coverage. The economic justice group also plans to continue helping people receiving Medicaid home-and-community-based services get the in-home care they need to remain in the community and out of institutions. Although Legal Aid invalidated the algorithm-based system in operation from 2016 to 2018, the state has implemented a new system featuring low budget caps that restrict the amount of services a beneficiary can receive, regardless of their actual need. At the same time, the state started using a tool for determining hours that doesn't take into account many of the real, on-the-ground needs of beneficiaries who have disabilities or are elderly. We have already done significant public education, currently have dozens of administrative hearings pending, and will consider litigation if needed.

The Domestic Violence workgroup will continue to focus on assisting survivors and will shift some emphasis in certain areas to addressing adverse childhood experience, giving higher priority to households with children age 5 or under. In this way, we hope to start having a larger impact on generational poverty.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

3 Describe how you have evaluated the effectiveness of your legal representation, including outcomes, in the last twenty-four months. Specifically describe:

a) any internal evaluations you have performed, your findings, and any changes you made to your legal representation in response to the findings, and

b) any external evaluations of your legal representation, who performed the evaluation, their findings, and any changes you made to your legal representation in response to the findings.

a. Legal Aid has performed internal evaluations in certain substantive areas in order to identify areas of excellence, areas of weakness, and appropriate resource allocation moving forward. For example, we mapped Order of Protection cases by county and judicial district, compared outcomes and penetration rates, which informed our service delivery model in this realm for 2019. We did similar analysis for our LITC program.

b. There have been no external evaluations in the past 24 months other than a visit by the Taxpayers Advocate Service, and they made no adverse findings. In the past month, the Access to Justice Foundation has made a site visit to review in part substantive work, but they have yet to issue a report.

F19 Bar Admission

F20 Advocacy

F21 Accomplishments for Clients (Excluding PAI)

F22 Decrease in total staff case closures of more than 20%

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Bar Admission:

1. Do you have attorneys who are admitted to practice in federal court? Yes

2. In the text box, list the states in which your attorneys are admitted to practice.

Arkansas, California, Missouri, New Jersey, New York, Oklahoma, Tennessee, Washington, Wisconsin

Decrease on total staff cases closures of more than 20%:

In the text box below, provide an explanation for staff case closures that decreased more than 20% from the prior calendar year.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Accomplishments for Clients (Excluding PAI):

Example1

Example Type Health

Describe the problem or challenge.

Client was facing a cut in the Medicaid home-care services he receives due to his cerebral palsy. Client has cerebral palsy and has been diagnosed with depression and anxiety disorders. Those home-care hours allow him to live in the community instead of in a nursing facility. Our state Medicaid agency, the Department of Human Services, switched away from a system where nurses used their professional discretion to determine hours to an algorithm-based system. Under the new system, he was facing a cut from 8 hours per day of care—already less than he needs—to a best-case scenario of about 5 hours per day of care. With the reduction, he would no longer have been able to live at home or participate in community events. Client is not employed due to his cerebral palsy. However, he is an elected member of his town council and participates in local community groups.

Describe the actions the program took.

During the first time DHS attempted to cut client's Medicaid home-care hours in 2016, we represented the client in an administrative hearing and won. Then, when DHS was set to cut his hours again in early 2017, we filed a lawsuit in state court to invalidate the entire algorithm-based system. After securing an early injunction, which was then sustained by the Arkansas Supreme Court, we won summary judgment and invalidated the algorithm-based system.

Describe the effects, results or outcomes of the program's actions.

As a result of the litigation, our client has been able to maintain 8 hours per day of care for the entire three-year run of the algorithm-based system. Thanks to the self-advocacy of this client and efforts by Legal Aid and others, the state abandoned the algorithm-based system in effect from 2016 to 2018 and switched to a different system starting in 2019. Under this latest system, the client has been able to keep his 8 hours per day of care. Most importantly, the care we preserved allows our client to live at home, participate in community events, and serve as an elected member of his town council. In financial terms, the lawsuit resulted in \$70,000 worth of care for the client above what he would have otherwise received.

By invalidating the algorithm, we helped dozens of clients we know about keep their hours for months or years longer than they would have otherwise and ended up invalidating a system that had reduced the care hours for around 4,000 Arkansans who either were of advanced age or had physical disabilities such as cerebral palsy and quadriplegia.

Example2

Example Type Health

Describe the problem or challenge.

Clients were facing the termination of their Medicaid expansion benefits, also known as Arkansas Works, due to the implementation of the work requirements. The new Arkansas Works waiver required beneficiaries to work 80 hours per month and report those hours through an online-only system. If a beneficiary failed to report for any three months out of the year, then they would be terminated for the remainder of the year and have to reapply for the following year. Clients faced a range of issues with this new system, including a lack of steady employment, health issues, access to the internet, and the ability to navigate the complex reporting website. The state terminated 18,164 Arkansas Works enrollees over the course of five months in 2018.

Several of our clients, along with nearly 7,000 other Arkansans on the program were facing potential termination as soon as April 2019 because they already had two months of non-compliance. The failure to comply or report for one more month would have led to termination of their Arkansas Works coverage for the remaining nine months in the year.

One client's trouble with the reporting system caused him to lose access to his Arkansas Works benefits despite working over 80 hours per month. As a result, he lost access to essential medications that treat his medical conditions because he could not afford the \$800 out of pocket cost. This caused his condition to worsen to the point that he had to make three emergency room visits over the course of a month. These hospital visits were also no longer covered, so he was unable to receive the full treatment that he needed. He also received a bill for nearly \$8000 in medical bills shortly after. The termination of his Medicaid benefits and resulting illness also caused him to lose the best job that he had ever had.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Describe the actions the program took.

We launched a massive outreach campaign at the start of 2018 to inform those on the program about the changes and how they may comply with the changes for they took place in June 2018. Many people were unaware of the changes due to the lack of outreach by the state and confusing notices that did not clearly explain how the work requirements applied them. We also set up a helpline just for Medicaid related issues to manage the volume of calls we were receiving as a result of community education efforts.

We also filed a lawsuit in D.C. federal court in August 2018, challenging the approval of the work requirements. After a hearing in March 2019, we won on summary judgment, and the work requirements were vacated.

Describe the effects, results or outcomes of the program's actions.

As a direct result of the litigation, our clients, along with 170,000 other low-income Arkansas on the Arkansas Works program are no longer subject to the work requirement in order to maintain their health insurance. For our client mentioned above, it means that he does not have to worry about losing his coverage because he has been unable to find an adequate job to replace the one he lost in 2018. Countless others can enjoy the benefits of health insurance coverage that allows them to work and live a full life in their communities.

Another direct result of the litigation was the increase in retroactive coverage from one month to three months. This means that when a person applies for Arkansas Works, he or she can receive coverage for medical expenses up to 90 days prior to the date of approval.

Example3

Example Type Miscellaneous

Describe the problem or challenge.

As a whole, members of the Marshallese community residing in Northwest Arkansas have very limited understanding of the US income tax system. Additionally, many Marshallese do not speak any or much English. As a result, most Marshallese taxpayers understand the lengthy and detailed IRS letters even less than their English-speaking counterparts. The Low Income Taxpayer Clinic handles many examinations, or audits, of Marshallese taxpayers. With their limited understanding and limited language skills, they cannot comply with IRS requests for documentation in audits. Although we conduct educational programs and author handouts, we have many Marshallese clients who would no doubt lose their audits, including the Earned Income Tax Credit they are entitled to, without legal help.

Describe the actions the program took.

A Marshallese grandfather filed his 2016 income tax return as Head of Household, claiming his adult daughter and his two grand-daughters as dependents and qualifying children, and claiming a refund of \$7,356. The IRS froze his refund, claiming he wasn't eligible for the Earned Income Tax Credit or the Additional Child Tax Credit. After struggling with the IRS examination himself, and in severe financial hardship, the taxpayer came to Legal Aid's Low Income Taxpayer Clinic (LITC) in November 2017 for help with securing his refund. After diligently working to gather the appropriate documentation, LITC petitioned United States Tax Court. Just under four months later, in July 2018, the LITC persuaded the IRS that our client was entitled to his full refund. We were prepared to bring this sympathetic grandpa before the Tax Court judge, but settled the matter with the IRS almost immediately. In November 2018 the relieved taxpayer received his full refund, with interest, of \$7,880.

Describe the effects, results or outcomes of the program's actions.

Our client was supporting a family of 4, including two small children, on an annual income of \$22,000. This taxpayer's income was so low that this refund constituted 26% of all monies coming into the household that year. Because of the audit, and despite our best efforts to speed things along, he did not receive the refund for a year after he brought us the case. These funds literally allow our client taxpayers to pay the rent, put food on the table, and buy shoes for the children. We rescued this client from staggering poverty here.

Legal Aid of Arkansas collaborates with other LITCs to share best practices, reports to the IRS how these audits severely impact low income taxpayers, and educates return preparers and taxpayers how to prevent and handle these audits. We are confident that our LITC efforts in 2018, for this and many other Marshallese taxpayers, improved the processing of refunds nationwide.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Three:

Criterion 2:

Inquiry

Applicant Response

1 Describe the process used to: a) identify cases suitable for referral to the PAI project, b) route cases to private attorneys, and c) identify cases, applicants, or low-income persons appropriate for other delivery options through PAI, e.g., pro se clinics. Identify the number of staff members involved in the PAI process, their titles and experience level.

The substantive work groups identify cases for referral consistent with case acceptance priorities and available resources. Cases are transferred to the appropriate pro bono coordinator through the case management system. The coordinator advises clients their case has been accepted, obtains any necessary compliance documents, and then matches clients with volunteers. There is three full-time pro bono staff. The Director of Private Attorney Engagement is an attorney with 11 years experience, 4.5 of that at Legal Aid. A pro bono coordinator with previous paralegal experience started with Legal Aid in January 2019, while a VISTA volunteer serving full-time with the PAI project was previously a pro bono coordinator at Legal Aid for over eight years and a certified paralegal. The pro bono staff periodically update the workgroups on volunteer availability to take cases so referrals can be appropriately increased or decreased. Information is pulled from the case management system and used to identify consumers who might benefit from other delivery options through PAI. For example, applicants for assistance with sealing criminal records who did not meet case acceptance priorities for extended services will be mined from the case management system and sent information about an upcoming pro se clinic staffed by pro bono volunteers. Legal Aid plans to integrate pro bono staff into weekly workgroup meetings starting in the summer of 2019.

2 Discuss how you will ensure quality control of your PAI program, including how you will assure that volunteers are qualified, that they receive sufficient support and training in their efforts, and that all cases and referrals for PAI are appropriate. Describe your procedures that ensure timely referral, follow-up, and disposition of PAI projects and cases and ensure client satisfaction with the services provided.

Attorneys must be licensed and in good standing with state and Federal Courts. When a new attorney signs up for the panel, her status is verified by a pro bono coordinator before being used as a volunteer. The pro bono staff monitor suspensions cautions, and reprimands and remove attorneys from the panel as appropriate. All clients are sent a satisfaction survey at the end of their case, and these are monitored closely to determine if there are patterns of dissatisfaction noted for any particular attorney. Extensive resources are available for volunteer attorneys on the website. Volunteers are provided sample pleadings and mentoring on request and free CLE opportunities. Coordinators contact clients within 24 hours of receiving a referral, and clients have 14 days to return any necessary compliance documents. When compliance documents are in order, the case is referred to a volunteer. The average time from intake to referral to a pro bono attorney is around one week. Volunteers identify substantive areas and geographic locations in which they are willing to take referrals, and this information is matched with client problems on the case management system. After referral, coordinators follow up in two weeks to assure the connection between the volunteer and client, and then quarterly after that until the case is complete. The Pro Bono Program will provide assistance to the volunteer attorney in any way possible to ensure that high- quality legal assistance is provided to the clients.

- a. Primary malpractice insurance coverage on all pro bono cases referred to volunteers;
- b. Sample pleadings and forms to be used as models;

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

- c. Poverty Law Practice Manuals;
- d. Volunteer Court reporters and volunteer law clerks to provide research and technical support;
- e. Reimbursement for any out-of-pocket expenses by the volunteer, and more, if the volunteer obtains prior approval;
- f. Time records to track the volunteer attorney's pro bono hours;
- g. Experienced attorney mentors for volunteers unfamiliar with a particular area of law.

If, after three requests, no pro bono attorney has agreed to accept the referral, the case is returned to the workgroup from which it originated. If the decision is made for staff to handle the case, the case is transferred from pro bono to the workgroup. A case closing form is completed by the attorney to describe the services performed, the result, the time spent and the monetary amount recovered or avoided for the client. A client satisfaction questionnaire is sent to clients when the case is over to ascertain their opinions about the services received and a thank you letter is sent to the attorney with the number of hours spent on the case. Attorneys receive client satisfaction surveys and a thank-you note for great results. The PAI staff follows up with the client and attorney when problems are identified.

3 Describe any partnerships to recruit volunteers and to improve your pro bono program.

Legal Aid works closely with the Arkansas Access to Justice Commission and the Center for Arkansas Legal Services when engaging in volunteer recruitment and program improvement. Joint recruiting takes place at the Arkansas Bar Association Annual Meeting and Mid-Year Meeting, the Supreme Court Practicum that is required attendance for all new bar members, and other joint efforts as they may arise such as the annual meeting of the Arkansas Trial Lawyers Association and local bar meetings. A yearly joint annual report with these partners that focuses primarily on volunteer recognition and recruitment is published with volunteers being recognized in an insert to the Arkansas Lawyer. Aging Service providers provide Title III funding to support the Arkansas Volunteer Lawyers for the Elderly program. Legal Aid participates in the National Pro Bono Week Celebration in cooperation with various community partners to host clinics/events throughout the service area during the year. Legal Aid buys advertising space in the two largest media markets each year on law day to recognize outstanding pro bono services and recruit additional volunteer attorneys.

Our Arkansas Volunteer Lawyers for the Elderly project partners with East Arkansas Area Agency on Aging, White River Area Agency on Aging, and the Area Agency on Aging for NWAR to serve the legal needs of clients 60 and older.

Legal Aid works with the Low Income Taxpayer Clinic and the Taxpayer Advocate to provide volunteer attorneys, enrolled agents and CPAs for taxpayers who need advice, and to assist in tax controversies with the State and IRS

Legal Aid partners with the University Of Arkansas School Of Law and Bowen School of Law Legal to encourage and promote pro bono service among law students. Pro Bono Law

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

students provide research and technical assistance for Legal Aid staff and pro bono attorneys and volunteer for pro bono attorneys and Legal Aid.

Legal Aid partners with Arkansas Children's Hospital in a Medical-Legal Partnership with Walmart Legal Department.

Legal Aid partners with Mid Delta Health Systems in a Medical-Legal Partnership with Friday, Eldridge & Clark, the largest law firm in Arkansas.

- 4 Respond to each of the inquiries below regarding your PAI project.
- a) If less than 10% of eligible private attorneys in your service area participate in PAI, provide an explanation of what you can do to improve participation during the grant year.
- b) Describe the major challenges your PAI project faces. Include a brief description of (i) any other private attorney projects in the service area that attract private attorneys; (ii) any bar or court rules that present challenges to pro bono participation; (iii) any economic constraints on private attorneys that would affect their participation in pro bono activities; and (iv) any other explanations for low participation in your PAI program.
- c) Describe how you intend to overcome the challenges described above in response to #4.b.

(i) The Access to Justice Commission host the ABA Free Legal Answers website in Arkansas. Although we do not believe this to be a significant drain on PAI resources in our state, the Commission does spend an inordinate amount of time pushing this product and recruiting volunteers, time that might have previously been used to recruit and foster volunteers for the Legal Aid programs. Other than this, there are no other private attorney projects in the Legal Aid of Arkansas service that attract private attorneys in substantial number.

(ii) There are currently no court rules that present significant challenges to pro bono participation.

(iii) Arkansas has the lowest attorney-to-population ratio of the 50 states and a genuine shortage of attorneys in the rural counties that make up most of the Legal Aid service area. The population of attorneys currently residing in Arkansas's twenty-five most rural counties is aging; 28% of these counties have no attorneys licensed in this millennium, and only 14 attorneys have moved into any of these counties since 2008. This lack of resources leads to the available private attorneys having a variety of jobs and responsibilities and may severely limit time left for volunteerism. The peak of PAI participation at Legal Aid coincided with the economic downturn, and as the economy started recovering starting in 2012-13, volunteer participation slowly declined to a critical low in 2018. Pro bono closures dropped 355% while overall case closures only dropped 2.7%.

(iv) Legal Aid has twice experienced 100% staff turnover in its pro bono program over the past three years. While this turnover can be attributed to external factors in the staff members' lives (family moves or better-paying opportunities), Legal Aid currently lacks streamlined pro bono staff training materials and comprehensive policies to efficiently onboard new pro bono personnel. Second, as discussed above, most of Arkansas's service area is rural, and the population of attorneys is decreasing and aging.

- F23 Private Attorney Involvement
- F24 Private Attorney Involvement Activities
- F25 Methods Used to Promote and Expand Involvement of Volunteer Attorneys, Law Students, Law Graduates, Paralegals, and Other Professionals

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

- F26 Methods Used to Retain Volunteer Attorneys, Law Graduates, Law Students, and Other Professionals
- F27 Accomplishments for Clients through PAI
- F28 Decrease in total PAI case closures of more than 20%

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Private Attorney Involvement Activities:

Number Participating	Taking Cases	In Clinics	Intake/ Hotlines	Co-counsel	Outreach/ Education	At Self-help Centers	Other(specify)
Pro bono attorneys	794	20	0	0	20	2	0
Contract/ Judicare attorneys	0	0	0	0	0	0	0
Law students (pro bono)	0	16	0	0	11	0	0
Law graduates (Pro bono)	0	0	0	0	0	0	0
Paralegals (pro bono)	0	0	0	0	0	0	0
Other professionals (pro bono)	2	0	0	0	0	0	0

Private Attorney Involvement:

	Private Attorney Involvement	Number
1	The number of attorneys admitted to practice in the service area who are in active status.	2260
2	The number of attorneys who made a monetary donation to applicant in lieu of participating in the PAI project in the last twelve months.	30
3	The number of partnerships established with law schools since last year.	0
4	The number of partnerships established with business leaders since last year.	0

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Methods Used To Promote and Expand Involvement of Volunteer Attorneys, Law Students, Law Graduates, Paralegals, and Other Professionals:

Methods Used To Promote and Expand Involvement of Volunteer Attorneys, Law Students, Law Graduates, Paralegals, and Other Professionals		
	Methods	
1	Personal and written contacts	Always
2	Solicitations from organized bar	Frequently
3	Solicitations by judges	Rarely
4	Public service announcements	Rarely
5	Partnerships with business leaders	Rarely
6	Targeted recruitment of lawyers with special skills	Frequently
7	Recruitment of retired, inactive attorneys	Rarely
8	Recruitment of government attorneys	Frequently
9	Recruitment of corporate attorneys	Frequently
10	Recruitment of law students	Always
11	Offers of co-counseling on cases	Frequently
12	Recruitment of large law firms	Always
13	Encouraging law firms to adopt big issues	Rarely
14	Development of incubator projects that provide legal training and support, for a limited period of time, to law students, law graduates, or attorneys who are establishing, or upon graduation and bar admission intend to establish, their own independent law practices	Rarely
15	Provision of CLE Credit	Frequently
16	Other (please specify)	Never

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Methods Used to Retain Volunteer Attorneys, Law graduates, Law Students, and Other Professionals:

Methods Used to Retain Volunteer Attorneys, Law graduates, Law Students, and Other Professionals		
	Methods	
1	Recognition ceremonies	Always
2	Recognition in publications or on websites	Always
3	Malpractice insurance	Always
4	Mentoring, co-counseling	Frequently
5	Free or low cost training	Frequently
6	Inclusion in substantive law task forces	Rarely
7	Access to specialized research materials	Rarely
8	Access to forms and document assembly	Frequently
9	Other (please specify)	Never

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Accomplishments through PAI:

Example 1

Example Type Housing

Describe the problem or challenge.

Our client's husband passed away in January 2018. He had a will made in 1990, but the only copy of the will was in a safe that she did not know the combination to. The will said that the surviving spouse gets everything. Her husband inherited the house from his mother. Now the client could suffer the loss of her home unless she can clear title.

Describe the actions taken with pro bono services.

The case was accepted pro bono and assigned to a partner in the largest law firm in Arkansas. He conducted a title search and then filed a small estate action to obtain an executor's deed on the property in favor of the client.

Describe the effects, results or outcomes of the program's actions.

The client was able to obtain clear title to the property and remain in the home, despite being unable to access her husband's will. This case arose out of the Medical-Legal Partnership at Mid-Delta clinic. The MLP has as a primary Pro Bono partner the largest law firm in Arkansas and was handled by one of the firm partners. This is one example of several similar land loss cases handled pro bono in the Delta throughout the year.

Example 2

Example Type Family

Describe the problem or challenge.

At our Medical-Legal Partnership at Arkansas Children's Hospital, we have several chronically ill children each year that are reaching adulthood but unable to care for themselves. Three examples in the past twelve months include a young lady with cerebral palsy and had a brain hemorrhage at birth; a young man with spina bifida who had so far undergone 34 surgeries; and, a young lady with cerebral palsy and significant other medical complications. In each case, the parent or caregiver needed guardianship as the least restrictive alternative to care for the young adult.

Describe the actions taken with pro bono services.

Legal Aid received a referral from medical staff at the MLP and referred the case to the pro bono coordinator at the Walmart Legal Department. From there, the cases were picked up by volunteer attorneys within the legal department, who prepared the guardianship cases, including gathering medical evidence supporting need and filed the guardianship.

Describe the effects, results or outcomes of the program's actions.

In each case, with the pro bono assistance of corporate counsel within the Walmart legal department, the parent or caregiver was able to obtain a guardianship over the young adult and assure their continued safety, care, and treatment.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Example 3

Example Type Consumer Finance

Describe the problem or challenge.

The client came to Legal Aid after being sued for a consumer debt. She had a significant amount of doctor bills and medication expenses, and currently need three surgeries but had no money to get that done. Some of the medical providers were wanting money "up front."

Describe the actions taken.

Legal Aid accepted the case and assigned it to an attorney who engages primarily in bankruptcy practice. The attorney filed a Chapter 7 bankruptcy on her behalf.

Describe the effects, results or outcomes of the actions taken.

The client was able to discharge approximately \$100,000 in debt and obtain the medical treatment she needed. Over the last three years pro bono attorneys have closed 30 cases for Legal Aid clients, resulting in \$800,000 in savings.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Advocacy

1. Do you have an advocacy manual?	Yes
2. If you have an advocacy manual, provide the date it was last revised.	07/12/2019
3. Have you evaluated the outcomes and effectiveness of your advocacy in the last 24 months?	Yes
4. If there has not been an evaluation of the outcomes and effectiveness of your advocacy in the last 24 months, provide the date of the last evaluation	

Decrease in total PAI case closures of more than 20%

In the text box below, provide an explanation for staff case closures that decreased more than 20% from the prior calendar year.

Over the past six years, Legal Aid of Arkansas's pro bono case closures has dropped significantly. This drop has been ongoing since 2013, when Legal Aid closed 584 pro bono cases, until 2018, when Legal Aid closed 245 LSC eligible cases. This decrease in pro bono cases is inconsistent with Legal Aid's overall case closures over the period. Legal Aid closed 6,598 cases in 2013 and 6,421 in 2018, only a 2.7% decrease. Legal Aid's intentional, strategic transformation over the past seven years, which allowed Legal Aid to have more impact on the communities it serves, may have failed to fully include and integrate the pro bono program. Legal Aid has transitioned from an individual office, general practice model to a program-wide model with specialized substantive workgroups. Significant changes were made to case acceptance priorities and Helpline policies to allow applicants to speak directly with attorneys who provide legal advice immediately on non-priority cases. These changes and efficiencies may have decreased the number of cases that considered for pro bono placements. Two additional factors are likely contributing to these decreases. First, Legal Aid has twice experienced 100% staff turnover in its pro bono program over the past three years. While this turnover can be attributed to external factors in the staff members' lives (family moves or better-paying opportunities), Legal Aid currently lacks streamlined pro bono staff training materials and comprehensive policies to efficiently onboard new pro bono personnel. Second, most of Arkansas's service area is rural, and the population of attorneys is decreasing and aging. Arkansas has the lowest attorney-to-population ratio of the 50 states and a genuine shortage of attorneys in the rural counties that make up most of the Legal Aid service area. The population of attorneys currently residing in Arkansas's twenty-five most rural counties is aging; 28% of these counties have no attorneys licensed in this millennium, and only 14 attorneys have moved into any of these counties since 2008. Legal Aid has applied for a PBIF Transformation grant this cycle to evaluate systems and develop a plan to reverse this cycle in declining PAI participation.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Three:

Criterion 3:

Inquiry

Applicant Response

1 Describe what community legal education you have provided in the past twenty-four months. Include the number of events, the audience, approximate number of persons attending, and topics covered.

In the past twenty-four months, Legal Aid has conducted 218 community presentations to more than 52,000 attendees (not counting video views on Facebook). Among these presentations have been in person presentations and live-streamed presentations. The types of training have included fair housing presentations to domestic violence shelters, churches, housing authorities, and community organizations. Also, the staff has provided consumer education training on avoiding scams and sealing criminal records. One major area of community education has been around the issue of new work requirements for Medicaid expansion known as Arkansas Works. Further, presentations have also included education on crime victims' rights and custody and guardianship issues. Examples include 700 people individuals attending live presentations on the Arkansas Medicaid expansion while another 100,712 viewed education videos on Legal Aid's Facebook page on this issue in 2018. Additionally, 7,200 flyers containing information about the Medicaid expansion and how to apply were distributed, many by direct mail to a targeted audience, including drug stores throughout Arkansas, public libraries, and previous Legal Aid clients. Our Fair Housing education and outreach initiative had a big impact, as over the past 12 months 83 presentations were made, reaching 1,454 people. The Fair Housing project also distributed 6,700 legal education flyers on five subjects in three languages, and also developed and deployed education videos in three languages. Our LITC clinic also made a significant number of community education presentations and used Facebook Live presentations to reach a more expansive audience.

2 Discuss your efforts to assist persons proceeding pro se in the past twenty-four months. Address:

a) how you have assisted persons proceeding pro se (in addition to community education) (e.g., through forms provided on a website, court self-help center, clinics, or individual assistance), and

b) your procedures for evaluating the efficiency and the effectiveness of your efforts assisting persons proceeding pro se.

a. Legal Aid and the Center for Arkansas Legal Services partner on a statewide website, found at www.arlegalservices.org. The website includes hundreds of client education materials (e.g., fact sheets, booklets web pages, and brochures); pro se forms and pleadings; and additional multimedia resources. Legal Aid staffs weekly court self-help clinics in Washington County at the Law Library, assisting almost 1,000 consumers in the past 24 months. We also work with our pro bono partners to conduct regular pro se clinics, where pro bono attorneys provide clients with documents for advance planning and record sealing. Almost a dozen of these clinics were held over the past 24 months, including a number of wills/end of life clinics where over 100 documents were prepared at each. Examples include a Saturday clinic in conjunction with a volunteer income tax service site in Helena-West Helena, where a dozen law students and private attorneys joined Legal Aid to produce almost 150 documents. Our 2019 Spring Break on the Road to Justice saw seven law students plus staff and volunteer attorneys visit three rural and isolated senior citizens centers over the course of three days and prepared 207 documents for 74 low-income seniors.

b. Our partner, the Arkansas Access to Justice Commission,

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

has begun studying the effectiveness of pro se forms and court self-help centers in Arkansas. This information is under continued review, but anecdotal information confirms that pro se clinics have been valuable and effective in alleviating client issues positively without full intervention by Legal Aid.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Three:

Criterion 4:

Inquiry

Applicant Response

F29 Involvement with Justice and Advocacy
Community

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Involvement with Justice and Advocacy Community:

Example1

Example Type Education

Legal Aid of Arkansas is central to community efforts to address generational poverty by provides coordinated and augmented services to families experiences high numbers of Adverse Childhood Experiences (ACEs). The so-called Monroe County Children in Trust (MCCIT) project was originally convened by a sitting Court of Appeals judge (acting in his private capacity) and involves the coordination of a community health clinic, Legal Aid of Arkansas, the local school district, pro bono lawyers who've adopted the project, philanthropic organizations, the faith community, and public health organizations. The advisory board with all partners meets every month or two, but the main work happens on a daily basis where the school and clinic screen kids for ACEs and then engage all the relevant service providers to offer needed services to the families. Legal Aid and pro bono partners have helped grandparents obtain guardianships to prevent foster care placement or have ensured access to public benefits or special education. The health clinic provides the needed medical services and treatments. The school district has changed its discipline practices to better help kids facing significant life struggles to stay in school as much as possible.

Example2

Example Type Health

Legal Aid of Arkansas led efforts to reduce the harm of work-reporting requirements in Medicaid. First, through cooperation with state-based public policy organizations, homeless service providers, community health clinics, libraries, hunger relief organizations, and others, we undertook the largest public education campaign in our history to help our client communities understand how to comply with the Medicaid work-reporting requirements. This involved attendance at countless meetings throughout the state, phone outreach to dozens of service providers or medical professionals, strategic use of social media, mailing information to clients, and visits to rural pharmacies, among other activities. Second, in partnership with national advocacy organizations the National Health Law Program and Southern Poverty Law Center, we filed suit to invalidate the work-reporting requirements. We ultimately prevailed at the federal district court level and are representing our clients on appeal at the D.C. Circuit Court of Appeals.

Example3

Example Type Family

Our domestic violence workgroup leader is on the board of directors and a chairman of the bylaws committee for Family Violence Prevention, a large domestic violence shelter. The organization has board meetings about 8-10 times a year where we discuss how we can assist the eligible client population with education and other resources regarding the prevention of domestic violence and the legal avenues available, if the violence occurs. The organization is a major source of referrals to Legal Aid and has a strong presence in North Central Arkansas. Legal Aid receive at least 20 Order of Protection petitions through this partnership monthly, and a decent amount of collateral, family law cases from those OP cases.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Four:

Criterion 1:

Inquiry

Applicant Response

- | | |
|---|--|
| <p>1 What efforts, if any, have you made to have the board composition reflective of your service area's demographics?</p> | <p>The board is composed of 21 members: 13 attorneys, seven client eligible, and one wild card. The annual diversity report is given each year to the boards Search, Appointments and Nominations Committee in January, then to the full board at the March meeting. The 2018 diversity report showed that the board is 62% female and 38% male. This is substantially reflective of client gender, as Legal Aid clients in 2018 were 75% female and 25% male. The racial makeup of the board generally reflects clients served. The board was 62% white, 28% black, and 5% each Hispanic and Asian. Clients served were 69% white, 22% black, 5% Hispanic and 4% other (mostly pacific islanders). We monitor these numbers annually, and the Search, Appointments and Nominations Committee uses them when seeking members of the board. Legal Aid is divided into two service regions, Delta and Ozark. The Delta Region has 55% of the client eligible population and 62% of the board members, while the Ozark Region has 45% of the client eligible population and 38% of the board members.</p> |
| <p>2 Describe any major challenges faced by the program in complying with the LSC regulation on board composition, i.e., 45 C.F.R. § 1607.3. Discuss any major challenges faced by board members that prevent them from completing their board term.</p> | <p>There have been no major challenges.</p> |
| <p>3 List the types of materials circulated in advance of board meetings. How many days before a board meeting are materials circulated?</p> | <p>Approximately six to eight weeks prior to each board meeting a save the date notice goes out and board members are asked to confirm their attendance and let the administrative assistant know if they will be needing lodging for the meeting. Two weeks prior to the meeting date, a complete board packet is posted online. A link to the packet is emailed to all board members and those who have requested hard copies receive them in the mail. The board packet averages over 100 pages, and includes the agenda and supporting documentation for each agenda item. This always includes a detailed directors report with attachments.</p> |
| <p>4 Describe any formal training on board responsibilities the board received in the last twenty-four months. Specifically address:</p> <p>a) orientation training provided for new members, who provided it, and what information was presented and/or materials provided.</p> <p>b) training provided for existing board members, who provided it, and what information was presented and/or materials provided.</p> | <p>In June, 2018, the Access to Justice Commission held a detailed orientation for new board members of both Legal Aid of Arkansas and the Center for Arkansas Legal Services. Training was provided by the Commission and Legal Aid of Arkansas Executive Directors. Legal Aid of Arkansas attempts to have one agenda item geared toward board training at each meeting. By way of example, the Executive Director gave a detailed training on what LSC programs can and can not do at the September, 2018 meeting. The fiscal officer will give a training on how to read financial reports at the upcoming training in June, 2019.</p> |
| <p>5 Describe how the board exercised its</p> | <p>a. The board last engaged in significant strategic planning in</p> |

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

oversight and leadership responsibilities in the last twenty-four months. Address participation in:

- a) progress on implementing strategic plan goals,
- b) major policy decisions and key challenges or opportunities you faced,
- c) significant board activities (excluding board meetings) that demonstrate the board's commitment to you and your mission, efforts to promote community awareness of your organization, and efforts to enhance your effectiveness,
- d) developing a vision for the program and engaging in strategic planning and fiscal oversight to achieve the vision,
- e) reviewing external organizations' reviews of your organization, and
- f) resource development.

2015. This effort resulted in a 2016-2020 strategic plan being adopted. The board has monitored implementation of this plan at quarterly meetings and is now in the preliminary planning stages for development of a future plan over the course of 2020.

b. The most significant policy decisions the board has addressed over the past two years involve vetting and approving litigation brought against the State and Federal Government over Medicaid. The board determined that an oversight committee, with one board member assigned to each substantive workgroup, would best advance the programs mission and board member responsibilities. A standing delivery of legal services/litigation committee was launched in 2018. Any significant litigation that might impact program reputation or resources is first vetted through this committee. The board also created a safety committee in 2018. A ban on firearms in the office was one of the most contentious things the board has undertaken.

c. The board was fully engaged in the Legal Aid 50th Anniversary celebration in October, 2017, attending and meeting with political leaders and members of the private bar and judiciary. Board members have assisted with Legal Aid's Law Day Running Festival and attended a pro bono recognition reception outside of the Legal Aid service area.

6 Describe the process used in the last evaluation of the executive director. Who is involved in the evaluation process? State whether applicant employed a 360-degree assessment of the executive director. Discuss applicant's process for obtaining feedback from staff and other stakeholders.

The board employs a 360-degree assessment of the Executive Director annually, usually in February. Information is solicited in survey form from Legal Aid staff, justice community partners throughout Arkansas, peers of the Executive Director, and a self-evaluation from the Executive Director. The personnel committee conducts this evaluation, meeting at least twice during the process, then the committee chair meets personally with the Executive Director to discuss the results. Finally, the committee shares the results with the full board in executive session at the March meeting.

7 Do some or all board members overlap with a partner provider's board members? If yes, state: a) the name of the other organization and its relationship to your organization, b) the number of your board members that are on the partner's board, c) whether officers overlap with the other organization's officers, and d) how potential conflicts of interest are identified and addressed.

No board members currently overlap with a partner provider's board. In the past, Legal Aid board members have also been members of the Access to Justice Commission or Foundation, but not currently.

F30 Board Data

F31 Board Committees and Frequency of Meetings

F32 Evaluations of the executive director

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Evaluations of the executive director:

1. Is the executive director formally evaluated on an annual basis? Yes

2. Enter the date of the last evaluation of the executive director. 03/30/2019

3. Is the future evaluation planned? Yes

If yes, enter the date of the next planned evaluation of the executive director. 03/28/2020

Board Policies and Practices:

Board Data		
1	Enter the number of meetings of the full board in the last two calendar years	8
2	Does the board have a written policy or practice that deals with conflicts of interest or potential conflicts of interest?	Yes
3	In the last twenty-four months did a quorum of board members attend each scheduled board meeting? If not, what was the number of meetings for which a quorum was not reached?	Yes
		0
4	Is there a limitation on the number of terms board members can serve on the board?	No
5	Enter the number of years the board chair has been in that position	2
6	Are board members given an orientation on board responsibilities?	Yes
7	Have board members received copies of the 2007 LSC Performance Criteria?	Yes
8	Have board members received copies of the LSC Act and Regulations?	Yes
9	Does the board have at least one member with expertise in accounting or auditing?	Yes

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Board Committees and Frequency Meetings:

Board Standing Committee Name	Committee Exists?	Frequency of Meetings Each Year
Executive	Yes	1
Finance/Audit	Yes	2
Resource Development	No	
Personnel/Human Resources	Yes	2
Board Development committee	Yes	2
Board Grievance committee	Yes	2
Board Governance committee	No	

Additional Standing Committees

Committee Name	Frequency of Meetings Each Year
Delivery of Legal Services/Litigation Committee	2
Safety Committee	2

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Four:

Criterion 2:

Inquiry

- 1 Discuss your efforts to ensure effective leadership.
 - a) Identify your leadership team members and their responsibilities.
 - b) Discuss briefly how your leaders galvanize staff, promote a unified vision, and effectuate an efficient delivery system.
 - c) Describe opportunities you provide to develop future diverse leaders at your organization.
 - d) Describe any mentoring systems, leadership trainings, and ways of recognizing key staff as leaders. Describe the outcomes from these efforts.

Applicant Response

The leadership team consists of Lee Richardson, Executive Director; Andrea Walker, Deputy Directory/HelpLine Manager; Teresa Franklin, Delta Regional Manager over four offices; Ashely Norman and Kris Ramsfield, Ozark Regional Managers over two offices; four work group leaders being Susan Purtle, Consumer; Jason Auer, Housing; Kevin DeLiban, Economic Justice; Blane Swain, Domestic Violence; Hannah Roe, Medical-Legal Partnership Supervision Attorney; David Bowman, Fiscal Officer; Elizabeth King, HR Manager; Helen Gratil, Director of Mission Engagement and CIO; and Greneda Johnson, Director of Private Attorney Engagement. Management team meetings are held Bi-weekly.

Leadership keeps staff up to date on things happening in the program by way of weekly substantive work group meetings and bi-weekly updates to all staff by the Executive Director. Staff milestones and success are celebrated, and positive client satisfaction results are shared when appropriate. The Director of Mission Engagement/CIO and her communications team maintain a vibrant social media presence that spotlights and celebrates a wide variety of accomplishments and milestones. The social media reach and engagement has almost tripled in the past twelve months. Celebrating ongoing systemic victories has created a positive vibe throughout the program. The HelpLine model and substantive work group model creates unity without geographic or local constraints. Strategic planning is inclusive of all groups and regions within the program and brought about a consensus vision for the 2016-2020 period, with early planning under way for the five years. The delivery system is streamlined and focused to get the maximum bang out of the limited resources available. Legal Aid of Arkansas refuses to be stuck in orthodoxy and is always developing and implementing new and exciting delivery models and ideas.

Legal Aid involves a significant number of staff, around 20%, on the management team. We do this in part to provide development opportunities for potential future high level leaders, and to engage as many people as possible in the decision making process. Every delivery and management component in the organization is represented. Entry level managers are provided with national training opportunities to enhance their exposure to opportunity and galvanize their vision. Three of the four substantive work group leaders were sent to the 2018 NLADA Litigation and Advocacy Leaders Conference. Five members of management attended the most recent Equal Justice Conference, and many management team members have been to MIE trainings on supervision and leadership. Each manager is given the annual opportunity to craft at least one of the bi-weekly "Monday Morning Updates" that are distributed program wide.

Leadership training opportunities are listed in the previous paragraph in part, and also include the NLADA Annual Conference, Shriver Center Affirmative Litigation training, and

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

similar opportunities. Staff return from these events galvanized and ready to share their zeal. Legal Aid presents an award each year at our annual conference recognizing an advocate for career service. Service milestones are celebrated annually. Legal Aid has retained a stable leadership team since the last grant cycle and continues to develop future leaders through our unique delivery system.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Four:

Criterion 3:

Inquiry

Applicant Response

1 Discuss how applicant ensures that technology is current and effectively managed. Include how staff are trained in the use of technology for service delivery. Summarize how applicant technology is integrated into overall service delivery, i.e., client services and program operations.

Legal Aid stays on top of technology development and management by having continued staff feedback and engagement, and incorporating our IT support contractor in decision making processes. For each of the past two years, we have sent a staff member to the Innovations in Technology conference to stay abreast of the latest developments in technology in the non-profit law firm world. Technology is effectively managed by a remote contractor, who prepares each new Legal Aid computer prior to deployment and thereafter monitors each computer with software, identifying problems, installing updates, and doing routine and incident driven maintenance remotely. The current technology structure is "idiot" proof, with each part being seamless and intuitive with only a rare need for staff training. When a new product is introduced, such as Delivery Trust email encryption in early 2018, training webinars are provided to get staff up to speed. Technology is integrated into all parts of client service delivery. Legal Server, a web based case management system, and a VoIP phone system make it possible for staff in seven distinct offices to seamlessly operate the Legal Aid HelpLine, incorporating virtually every staff member into HelpLine delivery. The VoIP phone system has total mobility, as does Legal Server, making service delivery possible from anywhere on the globe with connectivity. The online intake system allows clients who cannot access Legal Aid during regular business hours to complete an application for services at their leisure. Google Drive is currently used for storage and Gmail/Chat and google hangouts for communications. We recently added an SMS feature to Legal Server to facilitate contacting clients by text message. Legal Aid has shifted over the past 12 months to purchasing SSD laptops and docking stations in place of traditional desktop computers. We have provided two monitors to all staff that request them. Legal Aid still uses Microsoft office suite software primarily. The overall simplicity of operations has made servers and dedicated technology staff obsolete, hence Legal Aid has no staff member who dedicates more than .5 FTE to technology which is more in the realm of communications.

2 State whether the applicant has had an outside technology assessment or IT security audit, and if not, why not. If so, provide the date(s) and any critical recommendations.

For the past two years, we have provided the LSC Grantee Site Vulnerability Assessment Management Analysis Report from the Office of Inspector General to our IT contractor and asked that they analyze our security and make recommendations. The biggest weakness found was in Policy Configuration Settings. The contractor recommended getting a server and putting everyone on a domain, or getting on every system and individually adjusting settings. User training would also be a big help in this area. They recommended developing, implementing, and enforcing an IT policy, which Legal Aid has in place. They recommended updating the policy and training users in compliant use. They recommended user training on good internet habits; how to avoid malware, phishing, social engineering, and just good internet habits. They recommended we review our backup plan and a disaster recovery plan.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

- 3 Describe the technology planning process, including how often the technology plan is reviewed and updated and the staff positions involved in technology planning. State whether the applicant has a technology committee and if so, list the staff positions and how often they meet.
- Technology is integrated into the current strategic plan and will be part of the planning process for 2021-2025 which will start in approximately six months. As such, staff, board members and statewide justice partners will participate in the process. Legal Aid has created a staff technology committee which is chaired by the Chief Information Officer and includes one member of each substantive work group, one support staff member, the Deputy Director, Pro Bono staff member, Security Officer and Privacy Officer. The current VoIP phone system, web based case management system, and cloud base file sharing, make 100% mobility possible for all Legal Aid advocates and systems. We have one attorney who works seamlessly from North Carolina and another who works the majority of his time from his home. Technology support is now provided by contractors at a small fraction of the costs to having a staff IT department. Remote monitoring and support has identified several problems before manifestation. Legal Aid operates a program specific website at ww.arlegalaid.org and has taken primary responsibility of maintaining the statewide website at www.arlegalservices.org, where substantive legal information will continue to be housed. Monetary support is provided by the Center for Arkansas Legal Services.
- 4 Describe how the technology budget is prepared, including who is involved and how it is coordinated with the technology plan.
- The technology budget is prepared by consultation between the Executive Director, Security Officer, Privacy Officer, Chief Information Officer, IT contractor, and Fiscal Officer. It is driven by the annual technology plan, emerging needs, and sometimes is grant driven when new resources are developed that require additional or new technology support.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Four:

Criterion 4:

Inquiry

Applicant Response

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Four:

Criterion 5:

Inquiry

Applicant Response

- | | |
|---|--|
| <p>1 Describe the process used to formally evaluate staff. How often are staff evaluations conducted? If all staff are not formally evaluated on an annual basis, please discuss why.</p> | <p>Legal Aid’s policy requires the systematic evaluation of program staff’s work to assure the delivery of high quality legal services to clients. In addition to providing informal feedback, supervisors evaluate the work of each staff member in writing, at least once a year. Probationary employees receive written evaluations after six months of employment. Supervisors are expected to complete annual evaluations two weeks prior to the employee’s anniversary date.</p> |
| <p>2 Describe how the evaluation process is linked to the program’s goals, vision, and strategic initiatives. How are the evaluations used to improve performance and promote professional development?</p> | <p>The written evaluation form acknowledges the strengths and good work of a staff member, verifies the evaluation of the staff’s work, and identifies and communicates any concerns about the staff member’s work. As part of the evaluation process, supervisors and staff have a face-to-face private meeting to discuss feedback. A copy of the written evaluation and any written feedback provided by the staff is placed in the staff member’s file and kept confidential. When necessary, the supervisor and staff member develop a training and oversight plan to address any identified staff deficiencies or to improve performance. The written evaluation form also identifies goals for professional development, and these goals are discussed during the evaluation meeting.</p> |
| <p>3 Describe your human resources administration. Address:</p> <p>a) the number of human resources administration staff expressed in Full Time Equivalents (FTEs), their qualifications, and any training or other professional development opportunities provided,</p> <p>b) whether you have assessed salaries and benefits in the last twenty-four months,</p> <p>c) whether human resources administration plans and policies have been reviewed in the last twenty- four months, and</p> <p>d) the process for resolving employee complaints.</p> | <p>a. Legal Aid employs a 1 FTE human resource manager. She has worked with Legal Aid for the past seventeen years, has an AAS in Business Management, and has nine years of human resources experience. She regularly attends local human resource law trainings, and has attended national MIE trainings as well.</p> <p>b. Legal Aid has assessed salaries and benefits in the last twenty-four months and has a plan to revise the salary scale in the summer of 2019. The last revision was in December, 2016.</p> <p>c. Yes, human resource plans are evaluated regularly by administrative staff and the board, with the last policy updates occurring in March of 2018.</p> <p>d. Legal Aid has a formal grievance policy for employee complaints. Except in cases where it would be impractical, any employee with a personnel grievance is expected to bring the matter first to the attention of his supervisor, either orally or in writing. The supervisor has five days to respond to the grievance. If the grievance is not satisfactorily resolved by the supervisor, a written report is submitted to the executive director, who has five days to respond. If the staff member is not satisfied, s/he has the right to appeal to the personnel committee of the Board, which consists of at least three board members. When an employee appeals to the personnel committee, the committee shall meet within two weeks and the employee has the right to a hearing. If the staff member is dissatisfied with the decision of the personnel committee, the issue is brought to the full board.</p> |

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

- 4 Discuss your strategies used to recruit, retain, and promote a high-quality diverse staff that reflects the diversity of the client population in your service area. Address:
- a) whether there has been staff turnover or 20% or more based on a comparison of 2017 and 2018 Grantee Activity Report staffing data, if there has been summarize the major causes,
 - b) recruitment and retention efforts for advocacy, management, and support staff,
 - c) promotion and professional development opportunities for staff, including management and support staff, and
 - d) recognition of exceptional staff accomplishments.
- a. There has been more than 20% staff turnover when comparing the 2017 and 2018 Grantee Activity Report staffing data. There are several contributing factors. Legal Aid has various staff on specific term grants as well as students that come on for the summer only and this does skew the numbers a bit. Salaries are also a factor mostly on the attorney side and management is actively looking at ways to increase retention in this area.
- b. In order to attract and retain attorneys, Legal Aid offers a loan repayment assistance plan for all full-time attorneys with law school loans. Legal Aid reimburses bar exam fees on a case-by-case basis. Legal Aid allows adjusted schedules to allow for study time. In addition, Legal Aid offers all staff flexible schedules and comp time to allow staff flexibility and balance. In an effort to retain support staff, management will be evaluating the support staff salary scale in the summer of 2019 in hopes to offer a more competitive salary scale in the near future.
- c. All attorneys are part of a work group focusing on a specific area of law. Each work group is given a training budget at the beginning of the fiscal year. This allows ample training/professional development opportunities for all staff. Support Staff and management have a budget as well and staff are encouraged to seek out training that may be beneficial and present to management for approval. All staff attend a statewide conference each fall which also allows for professional development goals to be met. Legal Aid regularly sends middle managers to management and leadership training.
- d. Exceptional staff accomplishments are recognized in bi-weekly staff update emails and on the Legal Aid website. All staff anniversaries are recognized, and employee milestones are recognized with a one-time pay incentive and a meal. These compensations are provided by non-federal funds. Subject to available funding, year-end bonuses are awarded to staff. These performance bonuses have been awarded each year for more than a decade.

F33 Evaluations of staff

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Four:

Criterion 6:

Inquiry

Applicant Response

- 1 Discuss your efforts to ensure effective management and administration. Discuss:
- a) your management structure, including middle managers, and
 - b) your process for involving staff, board members, and other stakeholders in major policy matters, and how and to whom you communicate major policy decisions.

A. The Executive Director leads legal Aid. The Deputy Director, who has been with Legal Aid almost 15 years, also serves as HelpLine Manager. Regional Managers handle local administration, two sharing responsibilities in the Ozark Region, responsible for two offices and 50% of the staff, and the other in the Delta Region who is responsible for four offices and 50% of the team. Legal Aid has two offices outside the traditional service area, both in Little Rock, one under the direction of the MLP Supervising Attorney and the other under the guidance of the Director of Fair Housing. Both answer directly to the Delta Regional Manager or the Executive Director. Four workgroup leaders coordinate substantive work. The Litigation Director role is currently vacant as we review structure, and the workgroup leaders handle those duties. The Executive Director supervises and evaluates the Deputy Director, HelpLine Manager, Fiscal Officer, Director of Mission Engagement, Human Resources Manager, Director of Private Attorney Engagement, LITC Director, and Regional Managers. The Regional Managers supervise and evaluate all other staff in their respective areas. The Deputy Director provides significant input on the evaluation of legal support staff with HelpLine duties.

B. Major policy decisions are presented to the board for approval and reported to the board if prior consent is not possible. Management meetings are bi-weekly, and the executive director attempts to visit each office at least once every ninety days. Regional Managers visit each office at least every thirty days. When significant changes in policy are proposed the information is distributed to the staff and board for review. Management informs staff by way of a Monday Morning update email from the Executive Director distributed bi-weekly, or an "allstaff" email. The board is often involved through committee work, with committees holding meetings throughout the year. Stakeholders are included through the Access to Justice Commission and Board membership, where community action agencies, domestic violence shelters, aging programs, and housing programs, among others, are involved. The Executive Director gives a program update at quarterly Access to Justice Commission meetings and solicits feedback. During the upcoming strategic planning process, Legal Aid will involve staff, board members, representatives from the Access to Justice Commission and Foundation, local and statewide bar leadership, the Courts, community service providers, and staff from the Center for Arkansas Legal Services. Outreach efforts, often targeted at specific organizations and demographics, demonstrate Legal Aid's commitment to community involvement.

- 2 Discuss your systems and procedures that ensure compliance and enforcement of LSC's policies and regulatory requirements. Identify staff training provided and how frequently you review your compliance with LSC regulations. Identify any staff positions

Staff members have digital access to a copy of the LSC CSR Handbook and Regulations. Compliance issues have been virtually non-existent since moving to the Legal Server Case management system in 2014. Error rates on the last five self-inspections have been less than 3%, with no systemic problems revealed. The HelpLine Manager reviews all advice

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

responsible for ensuring compliance and enforcement of LSC's policies and regulatory requirements.

and limited service cases for compliance, while the Regional Managers review extended service cases. Staff complete a standard closing memo on extended cases and files are standardized making compliance documents easily identified. The requirement of an open case review every 60 days keeps cases from becoming stale or dormant and allows quick identification of compliance issues. The independent auditor reviews a sampling of cases each year and reports findings to management and the board of directors. New staff members receive compliance training, and a new attorney training protocol assists with compliance issues and development of institutional compliance knowledge. Mass staff training on compliance is reserved for when significant changes are made by a primary funding source, or systemic non-compliance is identified. All LSC program letters, alerts, and advisory opinions are shared with managers or all staff, depending on the content and impact. Error checks are conducted for compliance issues on the case management system annually or more often as needed, with findings and corrective action shared with managers or all staff.

- 3 Describe your policies and procedures for promoting and ensuring robust intra-staff and staff-management communications
Address:

- a) the frequency of staff meetings in offices and units, program-wide meetings, and office visits conducted by the executive director and/or other key management staff, and
- b) how leadership, management, and staff communicate (e.g., staff meetings, conference calls, video conferences, an intranet, newsletters).

a. Meetings of substantive workgroups occur weekly, where issues regarding cases and client communities are addressed and any administrative reminders are shared. Special units, such as Fair Housing, also schedule weekly calls. Regional managers visit local offices at least monthly and hold office meetings with the staff, in which administrative updates are given and any issues are addressed. The executive director visits each office at least quarterly, and visits Springdale, the office with the largest staff numbers, every other week, spending an average of fifteen business days a year there. Substantive workgroup leaders visit other offices as needed, and the entire staff gathers at least once annually for a statewide Legal Aid conference with a second gathering scheduled as funds permit.

b. The executive director meets with all leadership, including regional managers, administrative staff, and workgroup leaders, on a biweekly basis. These regularly scheduled meetings occur via teleconference. Smaller meetings are often held via video conferences or webinar. In person meetings of all staff occur once or twice a year, at staff retreats that include educational training and team building activities. In addition, the executive director sends a bi-weekly email to all staff on Monday mornings. This email includes all program updates, accomplishments, and staff milestones. All other members of management are invited to do one Monday morning update each year in the place of the executive director. Matters deemed worthy of immediate dissemination are emailed "allstaff" so that the information is shared immediately.

F34 Continuity of Operations Planning

Continuity of Operations Planning:

Continuity of Operations Planning

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

1	Does Applicant have a written continuity of operations plan	Yes
2	Does the continuity of operations plan address	
	a. ensuring the safety of staff	Yes
	b. continuing client services.	Yes
	c. preserving files, equipment and computer data bases	Yes
	d. continuing communication among program staff, management, the board, other providers and LSC	Yes
	e. relocation of Applicant's work site(s), if necessary.	Yes
	f. coordinating with state/local emergency preparedness entities.	Yes
3	Is the plan annually reviewed?	Yes
4	Is there assigned staff responsible for regular review and updating of the plan?	Yes

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Four:

Criterion 7:

Inquiry

Applicant Response

- 1 Describe your resource development capacity. Address:
- a) the number of resource development staff expressed in FTE(s), their qualifications, and any training or other professional development opportunities provided,
 - b) how those responsible for resource development are evaluated for this work,
 - c) how you cultivate new and existing donors,
 - d) use of resource development consultants or contractors, and
 - e) whether you engage in development efforts with other stakeholders.

A. Legal Aid of Arkansas has effectively used a team approach to resource development. Those with primary responsibility for development include the Executive Director (.25 FTE), Director of Mission Engagement (.25 FTE), part-time Community Education/Communications Specialist (.25 FTE), a part-time attorney/law school professor focused on development (.20 FTE), and starting in June, a VISTA member (1.0 FTE). While this team is the core of resource development, members of all four substantive workgroups have successfully assisted with or crafted applications for financial assistance. For example, the housing workgroup leader was at the helm of two HUD grants, a 2018 Education and Outreach grant followed by a 2019 Private Enforcement grant. Together, these grants are bringing in more than \$1,000,000 to Legal Aid. The Fair Housing Testing Director was the lead on a recently received LSC Disaster Preparedness grant. The Economic Justice Workgroup leader was instrumental in approaching three funders to raise over \$125,000 to further our Medicaid expansion and litigation. The Deputy Director, then a member of our Domestic Violence group, wrote two grants that resulted in three new attorney positions, one focused on campus sexual assault through Equal Justice Works and two funded by VOCA assisting minority victims of crime. These grants bring in around \$200,000 annually. A member of the consumer group successfully wrote a grant to the United Way to pay for filing fees for sealing criminal records. The Director of Mission Engagement attended a week-long grant writing seminar in the fall and is scheduled to attend the MIE National Fundraising Conference this July. She has succeeded in several grant writing efforts in her short tenure.

b. Resource development staff have annual evaluations. In addition to normal evaluation criteria used with all staff, the evaluation of resource development staff is driven by results. For example, the current Director of Mission Engagement has overseen approximately \$1.4 million in new money coming into Legal Aid since starting her position in November. Considering her annual salary of \$50,000, and only .25 FTE in development, this has been a significant return on investment. Other staff members involved in development are recognized for those efforts during their annual evaluations.

c. Legal Aid started using social media in the second half of 2018 to cultivate new donors. This successful effort culminated on Giving Tuesday with almost 100 individual donors giving to Legal Aid. During that day, Legal Aid staff went "live" on Facebook throughout the day, explaining the work we do and asking for support. Although donation amounts were generally small, averaging around \$80, the number of new donors cultivated should bode well for the future. We have also used some of our high profile litigation related to Medicaid expansion, through social and mainstream media, to solicit new individual donations. We continue to support the Access to Justice Foundation in their statewide

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

private bar fundraising campaign each fall.

d. Legal Aid had a resource development/communications contractors in the first part of 2019, but she has now come on staff part-time.

e. Legal Aid works with the Arkansas Access to Justice Commission/Foundation when engaging in development efforts, to share resources and avoid duplication of effort and confusion of mission. Legal Aid also engages with the Center for Arkansas Legal Services when development effort may impact their service area or have a direct impact on work the Center is doing.

2 Upload your current board-approved resource development plan (as a PDF file). If you do not have a current board-approved resource development plan to upload, then please describe your resource development strategies and efforts over the past twenty-four months and those planned for the next twenty-four months. Include any specific strategies and efforts to address unmet legal needs and any successes you have achieved.

Legal Aid is currently in the middle of drafting a development plan for approval in June 2019, meeting of the board of directors. The Director of Mission Engagement and part-time Development/Communications Specialist are crafting this plan; a preliminary draft will be included as an upload. Resource development has been tailored to complement the strategic plan and needs identified by the substantive law work groups in their annual priority setting and work plan development meetings. Strong consideration is given to funds availability. One example is the state received a significant increase in VOCA funding. Legal Aid applied for and received funding for two additional attorneys focused on serving minority victims of crime (African-American, Marshallese, Latino) with civil legal issues. During this funding cycle, we are seeking a third VOCA funded attorney position focused on elder abuse in rural North Central Arkansas where the median age of the population is significantly higher than the rest of the service area. Legal Aid identified adverse childhood experiences as a systemic indicator of future success among low-income families and has sought and received funding to start projects around this issue. We also identified campus sexual assault as an area of need not being addressed and sought and received funding for an attorney focused on this issue. The various workgroups identify significant needs (fair housing, Medicaid expansion, opioid crisis), and work closely with the development team to seek resources addressing those needs, so far successfully.

3 Do you publicize your accomplishments in newsletters, annual reports, newspaper articles and website postings? If so, discuss how these efforts are used to promote fundraising, and give any evidence of their success. Discuss recognition the applicant gives to donors.

Legal Aid successfully uses social media and leverages the mainstream media to promote client success stories and news about the work Legal Aid is doing. Our social media reach has more than doubled in in the past 12 months, from around 1,300 likes to more than 2,600. We constantly populated the page with the latest news about Legal Aid litigation and compelling client stories and videos. Our video post regarding the Medicaid expansion in Arkansas, how to comply, and how to contact Legal Aid if problems arise, reached 76,712 people in the first eight months of the year, with one video reaching over 40,000 social media users. We had over 100 articles, all positive, appear in local, statewide, and national press outlets touting systemic legal work and successful outcomes for clients. We also appeared on one statewide and two national news broadcast to promote our work and Legal Aid. Our "Giving Tuesday" campaign, as discussed above, was a big success, not so much in the amount raised, but in the number of individual donors and the increased social media reach

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Legal Aid achieved. We are listed in Arkansas Business as the 7th largest law firm in Arkansas. We publish an annual report in conjunction with the Arkansas Access to Justice Commission and Foundation and the Center for Arkansas Legal Services. This 20-page report is made available to potential funders and community partners in hard copy and is available in PDF online. An excerpt from this report recognizing all volunteers and donors is published in the Arkansas Lawyers and delivered to more than 5,000 attorneys. Legal Aid annually buys ten billboards in North Central and East Arkansas for a non-profit rate of \$100. All donors are also recognized with a personal letter from the Executive Director.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Performance Area Four:

Criterion 9:

Inquiry

- 1 Describe your contributions to statewide and/or regional efforts within the past twenty-four months to foster an integrated legal services delivery system including to:
 - a) ensure the availability of a full range of civil legal assistance,
 - b) eliminate access barriers for low-income persons and provide meaningful services to low-income persons,
 - c) effectively utilize resources including financial resources, volunteers, and in-kind resources,
 - d) increase communications and the exchange of information among legal services providers, and
 - e) ensure training and assistance in key areas of law and practice.

Applicant Response

A. The Executive Director is an ex-officio member of the Arkansas Access to Justice Commission and the Deputy Director is a voting member. Both participate on Commission committees that are actively engaged in assuring the availability of a full range of civil legal assistance throughout Arkansas. In 2018 the Executive Director was appointed by the Chief Justice of the Arkansas Supreme Court to a newly created Civil Justice Reform Committee and is a member of the Self Represented Litigant subcommittee which meets regularly. The Executive Director is also on the board of directors of Community Legal Access, a nonprofit organization that serves the lower to moderate income people who do not qualify for legal aid services. Legal Aid coordinates closely with other services providers, including the Law School Legal Clinics, Disability Rights Arkansas, ACLU, Arkansas Advocates for Children and Families, Lawyers Committee for Civil Rights, Northwest Arkansas Workers Justice Center, Urban League, and Administrative Office of the Courts to develop a statewide coordinated delivery system.

B. Legal Aid uses a full array of intake methods, including phone, online, referral, walk-in, and outreach. Legal Aid also offers extended HelpLine hours for those unable to call during the regular business day. We staff a weekly courthouse HelpDesk in our most populous county to provide legal information to low-income individuals who are representing themselves, reaching almost 500 consumers annually. We plan to launch a similar HelpDesk geared towards Veteran's services in the second half of 2019, in our third most populous county, staffed primarily by pro bono volunteers. We have at least five other regular scheduled outreach locations in the service area to meet the needs of clients who have a variety of problems accessing Legal Aid services otherwise.

C. Legal Aid and the Center for Arkansas Legal Services jointly maintain the statewide website. Starting in 2019, the Center for Arkansas Legal Services has contracted with Legal Aid to be the leader in website maintenance and content management. Legal Aid obtained a grant to leverage five VISTA members to support internal and statewide capacity building, with one each focused on development and fundraising, communications, volunteer recruitment, legal needs assessment, and substantive task force coordination between the two programs. VISTA members come to Legal Aid with little costs, a small supplemental housing allowance and one member being cost share.

D. Legal Aid now has a robust communications team, hiring a Director of Community Engagement in 2018, and having a VISTA and two Community Outreach and Education Coordinators. This, plus systemic litigation, has lead to Legal Aid being featured in local, state, and national news stories more than 100 times in each of the past two years and appearing on multiple state and national television broadcast.

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Our social media reach has more than doubled, with some Facebook post reaching over 40,000 community members. We have used this medium very effectively for outreach and education as well as program promotion and fundraising. With VISTA support, we have rejuvenated joint substantive law work groups in four areas, housing, domestic violence, economic justice, and consumer.

E. Legal Aid and the Center for Arkansas Legal Services hold a joint annual statewide conference. Staff committees meet to vet the most pressing training needs and share that information with conference planners. CLE events are also held for private attorneys during the course of the year and Legal Aid staff participate both as trainers and attendees.

F35 Accomplishments for Clients with Other Providers (required only for programs that are not full service providers)

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Evaluations of staff:

1. Are all staff formally evaluated on an annual basis? Yes
2. Have all staff been evaluated in the past three years? Yes
3. Enter the most recent year in which all staff was formally evaluated..

Accomplishments for Clients with Other Providers:

True Our program is a full service provider (i.e., provides limited and extended services across substantive law areas, across the entire service area)

Example1
Example Type

Example2
Example Type

Example3
Example Type

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Project and Subgrant Information

Service Area	AR-6 2020
Estimated Grant Amount	\$1,478,027

Subgrant Information

Subgrants of LSC Basic Field Grant Awards

- During the current grant year (calendar year 2019), is any portion of the LSC Basic Field grant award being allocated to another entity by subgrant? No

How many subgrants in the current year are for PAI activities?

How many subgrants in the current year are for non-PAI activities?

Total number of subgrants of LSC Basic Field grant funds in the current year 0
- In the upcoming grant year (calendar year 2020), does the applicant plan to allocate any portion of the LSC grant award to another entity as a subgrant? No

How many subgrants in the upcoming year will be for PAI activities?

How many subgrants in the upcoming year will be for non-PAI activities?

Total number of subgrants of LSC Basic Field grant funds expected for the upcoming grant year 0

Subgrants of Non-LSC funds for PAI Activities

- In the current year (calendar year 2019), does the applicant subgrant any of its non-LSC funds for PAI activities? No

If yes, how many subgrants will be made with non-LSC funds for PAI activities?
- In the upcoming grant year (calendar year 2020), does the applicant plan to subgrant any of its non-LSC funds for PAI activities? No

If yes, how many subgrants will be made with non-LSC funds for PAI activities?

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Projected Expenses (Form D-12)

	LSC Expenditures	Non-LSC Expenditures	Total
Personnel Expenses			
Lawyers Wages	\$571,818.00	\$1,093,480.00	\$1,665,298.00
Paralegals Wages	\$129,316.00	\$87,154.00	\$216,470.00
Other Staff Wages	\$362,976.00	\$53,116.00	\$416,092.00
Employee Benefits	\$214,981.00	\$198,634.00	\$413,615.00
Subtotal Personnel Expenses	\$1,279,091.00	\$1,432,384.00	\$2,711,475.00
Non-Personnel Expenses			
Space - Rent/Lease	\$35,348.00	\$7,552.00	\$42,900.00
Mortgage Payments	\$0.00	\$26,936.00	\$26,936.00
Other Space Expense	\$34,101.00	\$5,199.00	\$39,300.00
Equipment Rental	\$17,882.00	\$3,118.00	\$21,000.00
Office Supplies	\$37,842.00	\$19,658.00	\$57,500.00
Telephone	\$40,491.00	\$4,509.00	\$45,000.00
Travel - Board	\$4,500.00	\$0.00	\$4,500.00
Travel - Staff/Other	\$35,475.00	\$31,525.00	\$67,000.00
Training - Board	\$3,500.00	\$0.00	\$3,500.00
Training - Staff/Other	\$27,169.00	\$20,331.00	\$47,500.00
Library	\$15,000.00	\$0.00	\$15,000.00
Insurance	\$24,030.00	\$5,512.00	\$29,542.00
Dues and Fees	\$11,245.00	\$7,255.00	\$18,500.00
Audit	\$15,000.00	\$0.00	\$15,000.00
Litigation	\$5,461.00	\$4,539.00	\$10,000.00
Property Acquisition	\$0.00	\$0.00	\$0.00
Purchase Payments	\$0.00	\$0.00	\$0.00
Contract Services to Clients	\$0.00	\$0.00	\$0.00
Contracts Services to Applicant	\$0.00	\$0.00	\$0.00
Other	\$22,777.00	\$7,423.00	\$30,200.00
Subtotal Non-Personnel Expenses	\$329,821.00	\$143,557.00	\$473,378.00
Total	\$1,608,912.00	\$1,575,941.00	\$3,184,853.00

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Projected Revenue (Form D-14)

	Fund Codes	Amount
(A) LSC Funding Sources		
Basic Field	10	\$1,478,027.00
Other Grants, i.e. TIG, Disaster	20	\$0.00
Attorney Fee Awards	22	\$2,800.00
Publication Income	23	\$0.00
Carryover Funds	24	\$119,882.00
Interest/Investment Income	28	\$8,202.00
Subtotal (A) LSC Funding Sources		\$1,608,911.00
(B) Non-LSC Funding Sources		
Title XX of Social Security Act	30	\$0.00
Older Americans Act	32	\$46,561.00
Violence Against Women Act	33	\$229,000.00
Other Federal Grants	34	\$118,092.00
HUD Grants	36	\$93,750.00
General State Grants	40	\$0.00
Filing and Other Fees	41	\$198,888.00
Local Grants	42	\$12,500.00
Specific State Grants and Contracts	43	\$42,917.00
United Way Grants	44	\$60,635.00
Corporate and Individual Contributions	45	\$100,000.00
Private Foundation Grants	46	\$200,833.00
Bar Association Grants	48	\$0.00
IOLTA Grants	50	\$339,578.00
Attorney Fee Awards	52	\$1,200.00
Cy Pres Awards	53	\$0.00
Carryover Funds	54	\$1,227,330.00
Publication Income	55	\$0.00
Other Funds	99	\$25,724.00
Subtotal (B) Non-LSC Funding Sources		\$2,697,008.00

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

(C) Client Service Income

Gross Fees and Receipts from Client Services	57	\$0.00
Other Income Earned in For-Profit Activities	58	\$0.00
Subtotal (C) Client Service Income		\$0.00
Total		\$4,305,919.00

Current Year Expenses (Form D-2)

LSC Expenditures

Personnel Expenses

Subtotal Personnel Expenses

Non-Personnel Expenses

Subtotal Non-Personnel Expenses

Total

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Current Year Revenue (Form D-4)

	Fund Codes	Amount
(A) Non-LSC Funding Sources		

Subtotal (A) Non-LSC Funding Sources

(B) Client Service Income

Subtotal (B) Client Service Income

Total

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Actual Staffing Information (Form E-1)

	Supervising Attorneys	Other Attorneys	Paralegals	Other Staff
Full-Time	11	15	7	7
Part-Time	0	4	1	3
Volunteers	0	1	0	0
Average Salary	66586	56409	38633	34853
Average Years of Experience	13	8	17	7
Male	5	5		2
Female	6	14	7	8
White	9	16	4	6
African-American	2	3	4	1
Hispanic	0	0	0	1
Native American	0	0	0	0
Asian	0	0	0	2
Other Ethnicity	0	1	0	0

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Current Year Client Services (Form G-1) (not complete)

Type of Legal Problem	Cases Closed after Limited Service	Cases Closed after Extended Service	Total	Cases Remaining Open at Year End
Consumer Finance	565	73	638	150
Education	65	5	70	20
Employment	173	73	246	56
Family	1930	854	2784	475
Juvenile	230	62	292	65
Health	211	10	221	40
Housing	476	19	495	95
Income Maintenance	267	27	294	65
Individual Rights	208	50	258	60
Miscellaneous	248	29	277	50
Total All Cases	4373	1202	5575	1076

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Policy Board Structure (Form F)

GOVERNING/POLICY BOARD POSITIONS

	Total	McCollum Attorneys	Other Attorneys	Client Members	Other Members
Number of Bylaw Positions	21	13	1	7	0
Number of Filled Positions	21	13	1	7	0
Number of Vacancies	0	0	0	0	0

GOVERNING/POLICY BOARD VACANCIES

Number of Positions Vacant	McCollum Attorneys	Other Attorneys	Client Members	Other Members
Less than 90 Days	0	0	0	0
90 Days to 1 year	0	0	0	0
Greater than 1 year	0	0	0	0

VERIFICATION

The recipient's board consists of at least one-third eligible clients	Yes
The recipient's board consists of at least sixty percent attorneys.	Yes
The majority (>50%) of the total governing body are McCollum attorneys	Yes
Recipient's board meets all requirements to be in compliance with 45 C.F.R. Part 1607	Yes

APPLICANTS NOT IN COMPLIANCE

In consideration of applicant's bylaws, identify the number of vacant:
 Client board positions to be filled in order to be in compliance
 Attorney board positions to be filled in order to be in compliance
 McCollum attorney board positions to be filled to be in compliance

Identify the names of the appointing organizations the applicant is in contact with for filling the client and/or attorney board positions

Describe applicant's strategy, including timeline, for coming into compliance with 45 C.F.R. Part 1607.3 .

Board Chair

Name Lori Chumbler
Phone 4792771314

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

E-mail lori.chumbler@walmartlegal.com

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Board Members

Name Ms. Vilma Asencio
Status Current
Appointing Organization Workers Justice Center
Relevant Experience Appointed to the Legal Aid of Arkansas Board in January 2015. Ms. Asencio is an active member of her community. She is currently serving on the Client Advisory Committee.
Gender Female
Language 44 - Spanish/Spanish Creole
Ethnicity 30-Hispanic
Address 2301 Anna Street
Springdale, AR 72762
Phone 4792006978
Approximate year of the start of tenure 2015
Type of Member Client Member
Email Address Vasencio@outlook.com

Name Mr. Dennis Blackmore
Status Current
Appointing Organization North Central Arkansas Development
Relevant Experience Appointed to the Legal Aid of Arkansas Board in January 2016. Mr. Blackmore has previously served as the chairman of the Head Start Policy Council for NADC. He is currently serving on the Client Advisory Committee.
Gender Male
Language 00 - English only
Ethnicity 10-Caucasian
Address 880 Bryant Street
Batesville, AR 72501
Phone 8703840245
Approximate year of the start of tenure 2016
Type of Member Client Member
Email Address denniswblackmore@gmail.com

Name Mr. Fuller Bumpers
Status Current
Appointing Organization Independence County Bar Association
Relevant Experience Appointed to the Legal Aid of Arkansas Board in January 2018. He is currently practicing at Gregg, Farris and Bumpers in Batesville, AR.
Gender Male

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Language 00 - English only
Ethnicity 10-Caucasian
Address PO Box 2496
Batesville, AR 72503
Phone 8707937556
Approximate year of the start of tenure 2018
Type of Member McCollum Attorney
Email Address fbumpers@earthlink.net

Name Mr. Neal Burns
Status Current
Appointing Organization Greene County Bar Association
Relevant Experience Appointed to the Legal Aid of Arkansas Board in January 2016. Mr. Burns has been practicing law in Arkansas since 2011. He spent time working with Justice Robert Brown of the Arkansas Supreme Court before opening his own practice.

Gender Male
Language 00 - English only
Ethnicity 10-Caucasian
Address 200 S. Pruett St.
Paragould, AR 72450
Phone 8702392225
Approximate year of the start of tenure 2016
Type of Member McCollum Attorney
Email Address b.neal.burns@gmail.com

Name Ms. Lori Chumbler
Status Current
Appointing Organization Benton County Bar Association
Relevant Experience Appointed to the Legal Aid of Arkansas Board in December of 2011. She is currently Associate General Counsel for Walmart and in charge of the Legal Department's pro bono efforts. She also serves on the Arkansas Access to Justice Foundation board, and is the corporate point of contact for the Legal Aid Medical-Legal Partnership with Walmart at Arkansas Children's Hospital. She is currently serving as Board Chair and in that capacity serves on all committees.

Gender Female
Language 00 - English only
Ethnicity 10-Caucasian
Address 702 SW 8th Street
Bentonville, AR 72712

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Phone 4792771314
Approximate year of the start of tenure 2011
Type of Member McCollum Attorney
Email Address lori.chumbler@walmartlegal.com

Name Ms. Niki Cung
Status Current
Appointing Organization Washington County Bar Association
Relevant Experience She was appointed to the Legal Aid of Arkansas Board in 2007. She serves as immediate past Chair and is a member of the Executive Committee and the Search/Appointments/Nominations Committee. Partner at Kutak Rock LLP.

Gender Female
Language 00 - English only
Ethnicity 50-Asian or Pacific Islander
Address 234 East Millsap Road, Suite 400
Fayetteville, AR 72703-4099
Phone 4799734200
Approximate year of the start of tenure 2007
Type of Member McCollum Attorney
Email Address niki.cung@kutakrock.com

Name Mr. Steve Davis
Status Current
Appointing Organization Boone-Newton County Bar Association
Relevant Experience Appointed to the Legal Aid of Arkansas' Board in January 2018. He serves on the Safety Committee and the Standing Delivery of Legal Services/Litigation Committee. He is currently in private practice in Harrison, AR.

Gender Male
Language 00 - English only
Ethnicity 10-Caucasian
Address PO Box 1696
Harrison, AR 72602
Phone 8707414646
Approximate year of the start of tenure 2018
Type of Member McCollum Attorney
Email Address davislawfirm1@outlook.com

Name Ms. Pamela Haun

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Status Current
Appointing Organization Craighead County Bar Association
Relevant Experience Appointed to the Legal Aid of Arkansas Board in January 2011 to fill the Wild Card position. Currently serving as Board Vice Chair. Member of the Executive Committee and Audit/Finance Committee. Ms. Haun is a licensed CPA and currently works with Barrett & Deacon as a full time attorney.
Gender Female
Language 00 - English only
Ethnicity 10-Caucasian
Address P.O. Box 1700
Jonesboro, AR 72403
Phone 8709311700
Approximate year of the start of tenure 2011
Type of Member Other Attorney
Email Address phaun@wcjfirm.com

Name Ms. Helen Jenkins
Status Current
Appointing Organization CASA
Relevant Experience Appointed to the Legal Aid of Arkansas Board in January 2014. Ms. Jenkins volunteers with CASA and is active in her community and is currently serving on the Client Advisory Committee, Search/Appointments/Nominations Committee and Audit Finance Committee.
Gender Female
Language 00 - English only
Ethnicity 20-African American
Address 2018A Lindent Ct., Apt A
Gosnell, AR 72315
Phone 8707403945
Approximate year of the start of tenure 2014
Type of Member Client Member
Email Address annjen@yahoo.com

Name Ms. Kachia Phillips
Status Current
Appointing Organization Goodwill Industries
Relevant Experience Appointed to the Legal Aid of Arkansas' Board in January 2018. Ms. Phillips is a graduate of Goodwill's Transitional Employment Program and volunteers at Returning Home Center to help other clients that have been incarcerated. She is an active member of the community. She is a member of the Client Advisory Committee as well as the Standing

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Delivery of Legal Services/Litigation Committee.

Gender Female
Language 00 - English only
Ethnicity 10-Caucasian
Address 1216 N. B Street
Rogers, AR 72756
Phone 4793165569
Approximate year of the start of tenure 2018
Type of Member Client Member
Email Address kachiaphillips74@gmail.com

Name Ms. Donna Price
Status Current
Appointing Organization Van Buren County Bar Association
Relevant Experience Appointed to the Legal Aid of Arkansas Board in January 2017. Ms. Price is in private practice in Clinton, AR.

Gender Female
Language 00 - English only
Ethnicity 10-Caucasian
Address P.O. Box 430
Clinton, AR 72031
Phone 5017452283
Approximate year of the start of tenure 2017
Type of Member McCollum Attorney
Email Address donnaprinceattorney@gmail.com

Name Mr. Val P. Price
Status Current
Appointing Organization Craighead County Bar Association
Relevant Experience Appointed to the Legal Aid of Arkansas Board in 2005. Serves on the Personnel/Client Grievance Committee and the Safety Committee. Mr. Price is a Deputy Prosecuting Attorney and serves as counsel for parents in Dependent/Neglect cases.

Gender Male
Language 00 - English only
Ethnicity 10-Caucasian
Address PO Box 3072
Jonesboro, AR 72403
Phone 8709349400

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Approximate year of the start of tenure 2005
Type of Member McCollum Attorney
Email Address valandleah@yahoo.com

Name Ms. Faye Reed
Status Current
Appointing Organization Phillips County Bar Association
Relevant Experience Appointed to the Board in late 2015. Ms. Reed was a previous staff attorney for Legal Aid of Arkansas and is an active member of the community. She currently serves on the Personnel/Client/Grievance Committee. Ms. Reed is a Deputy Prosecutor in Phillips County.

Gender Female
Language 00 - English only
Ethnicity 20-African American
Address 110 Oakland Ave.
Helena-West Helena, AR 72342
Phone 8709953198

Approximate year of the start of tenure 2015
Type of Member McCollum Attorney
Email Address frimprove@gmail.com

Name Ms. Annie Smith
Status Current
Appointing Organization University of Arkansas School of Law
Relevant Experience Appointed to the Legal Aid of Arkansas' Board of Directors in July 2014. She is currently a professor at the University of Arkansas School of Law and serving on the Audit Finance Committee, Safety Committee and Standing Delivery of Legal Services/Litigation Committee. She is currently serving as Board Treasurer.

Gender Female
Language 00 - English only
Ethnicity 10-Caucasian
Address 1045 W. Maple Street Waterman Hall – Room 107
Fayetteville, AR 72701

Phone 4795753056
Approximate year of the start of tenure 2014
Type of Member McCollum Attorney
Email Address abs006@uark.edu

Name Mrs. Ashlie Thacker

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Status Current
Appointing Organization Family Crisis Center
Relevant Experience Appointed to the Legal Aid of Arkansas Board in January 2017. Ms. Thacker is active in her community and has firsthand experience with the services Legal Aid of Arkansas provides. She is a member of the Client Advisory Committee, Search Appointments Nominations Committee and the Safety Committee.
Gender Female
Language 00 - English only
Ethnicity 10-Caucasian
Address 3608 Shelby Drive
Paragould, AR 72450
Phone 8705650445
Approximate year of the start of tenure 2017
Type of Member Client Member
Email Address ashliedthacker08@gmail.com

Name Ms. Demetre Walker
Status Current
Appointing Organization Arkansas Support Network
Relevant Experience Appointed to the Legal Aid of Arkansas Board in September 2011. She is serving on the Client Advisory Committee, Executive Committee and Personnel Client Grievance Committee as well as Secretary to the Board of Directors.
Gender Female
Language 00 - English only
Ethnicity 20-African American
Address 902 N. Larkspur Lane
Fayetteville, AR 72704
Phone 4797900440
Approximate year of the start of tenure 2011
Type of Member Client Member
Email Address demetrea43@gmail.com

Name Mr. Curtis Walker
Status Current
Appointing Organization Arkansas Bar Association
Relevant Experience Appointed to the Legal Aid of Arkansas Board in 2009. Mr. Walker is the Deputy Prosecutor in Mississippi County.
Gender Male
Language 00 - English only

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Ethnicity 20-African American
 Address P.O. Box 627
 Blytheville, AR 723160627
 Phone 8707637073
 Approximate year of the start of tenure 2009
 Type of Member McCollum Attorney
 Email Address curtisjerome@sbcglobal.net

Name Ms. Rene Ward
 Status Current
 Appointing Organization East Arkansas Area Agency on Aging
 Relevant Experience Appointed to the Legal Aid of Arkansas' Board of Directors in January 2015. She is very active in her community. She is currently serving on the Client Advisory Committee.

Gender Female
 Language 00 - English only
 Ethnicity 20-African American
 Address PO Box 3031
 Forrest City, AR 72336
 Phone 8702614309
 Approximate year of the start of tenure 2015
 Type of Member Client Member
 Email Address grward72335@yahoo.com

Name Mr. Tim Watson
 Status Current
 Appointing Organization Jackson County Bar Association
 Relevant Experience Appointed to the Legal Aid of Arkansas Board in January 2017. Mr. Watson is a graduate of the University of Arkansas School of Law and has been practicing in his hometown of Newport, Arkansas for six years.

Gender Male
 Language 00 - English only
 Ethnicity 10-Caucasian
 Address P.O. Box 988
 Newport, AR 72112
 Phone 8705238420
 Approximate year of the start of tenure 2017
 Type of Member McCollum Attorney
 Email Address timwatsonjrlaw@yahoo.com

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Name Mr. Kevin Watts
Status Current
Appointing Organization Cross County Bar Association
Relevant Experience Bar association president. Participant in Bowen School of Law Rural Incubator program. Serves as a deputy prosecuting attorney and is also in private practice.
Gender Male
Language 00 - English only
Ethnicity 10-Caucasian
Address 218 N Terry Street
Wynne, AR 72396
Phone 8703181690
Approximate year of the start of tenure 2019
Type of Member McCollum Attorney
Email Address kawattslaw@gmail.com

Name Mr. Ron Wilson
Status Current
Appointing Organization Crittenden County Bar Association
Relevant Experience Appointed to the Legal Aid of Arkansas Board in 2003. A member of the Executive Committee and the Safety Committee. He is a former Legal Aid staff attorney.
Gender Male
Language 00 - English only
Ethnicity 20-African American
Address PO Box 1299
West Memphis, AR 72303
Phone 8707352940
Approximate year of the start of tenure 2003
Type of Member McCollum Attorney
Email Address esquirewilson@yahoo.com

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Projected Expenditures by Type of Activity (Form G-12)

SECTION A

Distribution of Expenditures for Cases, Other Services, and Supporting Activities	Expenditures (\$)	% of Total
1. Cases	\$643565	40%
2. Other Services (formerly referred to as Matters)	\$321782	20%
3. Supporting Activities	\$643565	40%
4. Total	\$1608912	100%

SECTION B

Distribution of Expenditures by Case Types

Distribution of Expenditures by Case Types	Expenditures (\$)	% of Total
1. Consumer/Finance	\$123156	19%
2. Education	\$7323	1%
3. Employment	\$12727	2%
4. Family	\$333263	52%
5. Juvenile	\$61892	10%
6. Health	\$37209	6%
7. Housing	\$1081	%
8. Income Maintenance	\$47721	7%
9. Individual Rights	\$10360	2%
10. Miscellaneous	\$8833	1%
11. Total Case Funding	\$643565	100%

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

PAI Current Year Expenses (Form D-13)

	LSC Expenditures	Non-LSC Expenditures	Total
Personnel Expenses			
Lawyers Wages	\$73,569.00	\$23,184.00	\$96,753.00
Paralegals Wages	\$664.00	\$856.00	\$1,520.00
Other Staff Wages	\$21,098.00	\$6,514.00	\$27,612.00
Employee Benefits	\$19,014.00	\$6,094.00	\$25,108.00
Subtotal Personnel Expenses	\$114,345.00	\$36,648.00	\$150,993.00
Non-Personnel Expenses			
Space - Rent/Lease	\$2,203.00	\$0.00	\$2,203.00
Mortgage Payments	\$0.00	\$0.00	\$0.00
Other Space Expense	\$1,450.00	\$0.00	\$1,450.00
Equipment Rental	\$1,045.00	\$0.00	\$1,045.00
Office Supplies	\$2,801.00	\$0.00	\$2,801.00
Telephone	\$3,213.00	\$0.00	\$3,213.00
Travel - Board	\$0.00	\$0.00	\$0.00
Travel - Staff/Other	\$18,007.00	\$0.00	\$18,007.00
Training - Board	\$0.00	\$0.00	\$0.00
Training - Staff/Other	\$8,815.00	\$0.00	\$8,815.00
Library	\$884.00	\$0.00	\$884.00
Insurance	\$2,817.00	\$0.00	\$2,817.00
Dues and Fees	\$0.00	\$255.00	\$255.00
Audit	\$0.00	\$0.00	\$0.00
Litigation	\$250.00	\$0.00	\$250.00
Property Acquisition	\$0.00	\$0.00	\$0.00
Purchase Payments	\$0.00	\$0.00	\$0.00
Contract Services to Clients	\$0.00	\$0.00	\$0.00
Contracts Services to Applicant	\$0.00	\$0.00	\$0.00
Other	\$2,547.00	\$0.00	\$2,547.00
Subtotal Non-Personnel Expenses	\$44,032.00	\$255.00	\$44,287.00
Total	\$158,377.00	\$36,903.00	\$195,280.00

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Technology (Form K)

OPERATING SYSTEM Percentage Staff

Windows 7	0
Windows 8	28
Windows XP	0
Linux	0
macOS	2
Other	0
Windows Vista	0
Windows 10	70
Chrome OS	0

E-MAIL SOFTWARE Percentage Staff

G Suite (Google Apps)	100
Outlook (without Exchange)	0
Outlook Express or Windows Live Mail	0
Other	0
MS Exchange (Local)	0
MS Exchange (Hosted, not Office 365)	0
MS Exchange (Office 365)	0

INTERNET BROWSER Percentage Staff

Chrome	100
Other	0
Mozilla Firefox	0
Safari	0
Microsoft Edge	0
Internet Explorer 10 or earlier	0
Internet Explorer 11	0

DOCUMENT/KNOWLEDGE MANAGEMENT Percentage Staff

Google Drive/Google Teams	100
---------------------------	-----

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

OFFICE PRODUCTIVITY **Percentage Staff**

Office 2007	0
Office 2010	0
Office 2013	0
Office 2016	100
Office 2019	0
Office 365	0
G Suite(Google Apps)	0
WordPerfect	0

DATA ANALYSIS?VISUALIZATION **Percentage Staff**

Database/spreadsheet applications (Excel, Access, etc.)	100
Statistical software (SPSS, Stata, R, etc.)	0
GIS applications (ArcGIS, QGIS, Google Fusion Tables, etc.)	0
Data visualization tools (Power BI, Tableau, Domo, etc.)	0

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

CASE MANAGEMENT **Percentage Staff**

LegalServer	100
PIKA	0
Practice Manager	0
Legal Files	0
Kemps	0
Time	0
Other	0
Salesforce	0
ProLaw	0

ACCOUNTING **Percentage Staff**

Other	100
CYMA Not for Profit	0
Fund EZ	0
Sage Products	0
Quick Books Products	0
Custom/Proprietary	0
Abila MIP	0

If Other Accounting software used, what? Cougar Mountain/Denali

Please describe the functionality/modules used within your accounting systems –e.g., accounts payable, accounts receivable, payroll, general ledger, grant management, etc.

accounts payable, accounts receivable, payroll, general ledger, grant management

TIME KEEPING

Do you use a program other than your case management software for your timekeeping? No

If yes, what software are you using? n/a

Does your organization use any of these commercial cloud providers to host applications or support services?

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

LEGAL RESEARCH

Lexis

FastCase

Description: n/a

DEGREE OF CONNECTIVITY

Are program computers networked between all program offices? No

Can staff access electronic files created or stored in other offices (through shared folders or a knowledge management system)? Yes

Do staff have the capacity to search for files across offices? Yes

NETWORK

Approximately what portion of staff is provided remote access? Few staff (less than 20% but more than zero)

If remote access is offered, what software are you using?

LogMeIn

If Other, what? none

Are you using a VPN? No

Are some or all of your servers hosted on site (in the program office)? No

Are some or all of your servers hosted externally? Yes

Does your program utilize virtualized servers? Yes

Does your program utilize virtual desktops/VDI? Yes

Does your program utilize videoconferencing? Yes

If yes, do you use a web-based videoconferencing, such as Skype or Go-to-Meeting? Yes

If yes, do you use a standalone videoconferencing system, such as Polycom or Lifesize? No

If yes, can it connect to videoconferencing systems outside the program? No

Does your program utilize web conferencing? Yes

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

INTERNET ACCESS

How are all of your offices connected to the Internet (select all that apply):

Fiber/Metro Ethernet?	No
Cable?	Yes
ISDN?	No
T1?	No
Satellite?	No
DSL?	No
T3/DS3?	No
Other?	No
Description	High speed cable
What range of bandwidth is available at your offices?	200/20

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

WEB SITE INFORMATION

To what web page / resource should the LSC Find Legal Aid tool point users in your service area seeking legal assistance? <http://arlegalaid.org/contact-us/apply-for-legal-aid.html>

Does your program have a Google AdWords campaign? Yes

What is the URL for your Statewide Web Site? <http://www.arlegalservices.org/>

Statewide Web Site Coordinator Helen Gratil

E-mail Address hgratil@arlegalaid.org

Phone 8709729224

Does the state have a system for maintaining content on the SWWS? Yes

If yes, explain

Statewide task forces and internal Work Groups (Practice Groups) from each program in the state have a coordinated check-list to assure the currency of all content on an annual basis.

Does the program have any social media accounts? Yes

If yes, which ones?

- Facebook
- Twitter
- YouTube
- Instagram

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

AUTOMATED DOCUMENTS

Does your program make use of automated forms? Yes

If yes, which systems are you using? LawHelp Interactive
Desktop version of HotDocs

If other, which systems are you using? n/a

If yes, does your program use automated forms for:

- Pro se Yes
- Staff advocate Yes
- Pro bono forms Yes

Is staff required to use certain forms? No

What are the three most frequently used forms for advocates? Divorce, In Forma Pauperis

Approximately how many forms are available for staff/pro bono use? 30

Are the automated forms created by (check all that apply):

- Staff Yes
- Law Student No
- Pro Bono No
- Outside contractor No

Are you using A2J Author? Yes

If yes, does your program use it for:

- Pro se forms Yes
- Staff advocate/pro bono forms Yes
- Online intake/triage No

Has your program made financial contributions to the statewide web sites (SWWS) in the past year? Yes

If Yes, how much? 25000

Has your program provided content for the SWWS? Yes

Has your program participated in stakeholder meetings for the SWWS? Yes

Has your program done outreach for SWWS? No

Is there a portion of the SWWS dedicated to the recruitment and support of pro bono attorneys? Yes

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Does your program maintain a web site separate and apart from the SWWS?

Yes

If Yes, what is the URL?

www.arlegalaid.org

If Yes, name of Program Website Contact

Helen Gratil
8709729224
hgratil@arlegalaid.org

If yes, are any LSC funds used to maintain this web site?

Yes

Program Technology Contact Person

Helen Gratil

E-mail Address

hgratil@arlegalaid.org

Phone

8709729224

Statewide Technology Contact Person

Helen Gratil

E-mail Address

hgratil@arlegalaid.org

Phone

8709729224

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Technology Budget Form

TECHNOLOGY BUDGET FORM		EXPENDITURES (\$)
1.	Program IT Staffing Costs	36357
2.	External IT Staffing Costs	11473
3.	Space Cost (Rent/Lease)	0
4.	Travel	2500
5.	Equipment (Purchase)	9400
6.	Equipment (Rental)	13147
7.	Telecommunications bandwidth charges	8220
8.	Communications (Other)	30016
9.	Software	3500
10.	Supplies	3000
11.	Contracts	6538
12.	Training for IT Staff	1000
13.	Technology Training for other Staff	1500
14.	Other	13800
15.	Total	140451

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Professional References

Mr. Harry Light
Partner
Friday, Eldredge & Clark LLP
400 West Capital Avenue, Suite 2000
Little Rock, AR 72201-3493

Phone: 5013703304
Fax: 5012445362
Email: light@fridayfirm.com

Ms. Vicki Crego
Executive Director
Family Crisis Center, Inc.
P.O. Box 721
Jonesboro, AR 72403

Phone: 8703385522
Fax: 8703385591
Email: vgestring@neafamilycrisiscenter.org

Ms. Amy Dunn Johnson
Executive Director
Access to Justice Commission, Access to
Justice Fo
1111 West 6th Street, Suite D
Little Rock, AR 72201

Phone: 5014927172
Fax: 5014927172
Email: adjohnson@arkansasjustice.org

Mr. Jon Comstock
Attorney
Comstock Conflict Resolution Services
206 S 2nd Street, Suite C
Rogers, AR 72756

Phone: 4796591767
Fax: 4796591767
Email: jon@joncomstock.com

Mr. Chalk S. Mitchell
Circuit Judge
State of Arkansas
P.O. Box 177
Helena-West Helena, AR 72390

Phone: 8703385522
Fax: 8703385591
Email: chaulkmitchell@sbcglobal.net

Legal Services Corporation	Legal Aid of Arkansas, Inc. (604020)
AR-6 2020	Mr. Lee Richardson
Submit Application	Submitted: 05/31/2019

Conflicts, Complaints & Performance Evaluations:

Conflicts of Interest

LSC requires Applicants to disclose any potential significant conflicts (e.g., Applicant has been retained by a housing authority or financial institution).

Legal Aid of Arkansas has Medical-Legal Partnerships at three locations, Arkansas Children's Hospital, Mid-Delta Health Systems, and Mid-South Health Systems. The partnerships have not resulted in any conflicts as of this date.

No There are no potential significant conflicts.

Describe the Applicant's capacity to protect against any such conflicts that may arise during the term of the grant or contract

A conflict with any of these partners would be unusual but not outside the realm of possibility. Legal Aid would simply not maintain an action or adversarial relationship if the medical provider is the adverse party.

List of Disciplinary Complaints and Malpractice Lawsuits

List all professional disciplinary complaints, criminal convictions, civil contempt, and malpractice lawsuits and/or claims made against the Applicant or any of its attorneys during the past thirty-six months. List all pending lawsuits and/or claims against the Applicant, regardless of the date of the lawsuit or the date the claim was initiated.

A disgruntled client filed a grievance with the Supreme Court Professional Conduct committee over how a staff attorney handled her case in a consumer action. The complaint was filed on November 21, 2018 and the committee issued a finding of no merit on March 28, 2019.

No There have been no disciplinary complaints, criminal convictions, civil contempt, and malpractice lawsuits and/or claims made against the Applicant or any of its current attorneys during the past thirty-six months, and there are no pending lawsuits and/or claims against the Applicant.

List of Performance Evaluation and Monitoring Reports

List all performance evaluation and monitoring reports (PEM) by non-LSC funders, regulatory agencies, or evaluators the Applicant has received within the past thirty-six months. For each report, state the agency issuing the report and the date the report was issued.

There was a VOCA monitoring visit by the Arkansas Office of Intergovernmental Services Department of Finance & Administration in April, 2019 with a report issued in May.

No The Applicant has not received any program evaluation and monitoring reports during the past thirty-six months.

Overview of the Applicant's Organization and Delivery System

Legal Aid of Arkansas, Inc.	Applicant Number: 604020
Service Areas: AR-6 2020	Total Funding Requested: \$1,478,027

1. Describe the geographical, demographic and cultural characteristics of the service area.

a. Indicate whether the service area is primarily rural, urban, or mixed. Explain which counties or cities (or the number of counties or cities) classify it as such.

The area is rural with three urban pockets. The population density in Arkansas is 58 persons per square mile, the lowest in the South. Over half the 31 counties served by Legal Aid of Arkansas have less than 30 persons per square mile, with Newton County having only 9.9. The three MSA's are Fayetteville-Springdale-Rogers, 537,463; Jonesboro, 134,643; and Memphis (includes West Memphis, Arkansas), 1,348,260. Six counties in the service area are within one of the MSA's while the remaining 27 are rural.

b. If there have been significant changes, explain the changes and how they affect the eligible client population of the service area. If there have been no significant changes, indicate this and explain the characteristics that have consistently affected the eligible client population.

The population of the service area increased by 18% from 2010 to 2019. The most populous and affluent counties, Benton, Washington and Craighead, showed increases of 19.7%, 13.7% and 10.7% respectively. The Fayetteville-Springdale-Rogers broke into the top 100 MSAs in the country and has the 13th highest growth rate nationally.

Many of the impoverished counties, such as Monroe, Lee, and Phillips showed steep declines in population, all more than 11%. Two-thirds of the counties in the service area had a population decline. Thirteen counties have poverty rates of more than 20%, topping out with the three poorest counties in Arkansas, Phillips (39.8), Lee (37.3), and St. Francis (33.7). In Phillips County, 59.4% of children live in poverty. The poorest counties are located in areas with the highest concentration of African-American residents, with over 60% of the population in Phillips County being African-American.

The Hispanic population in Arkansas has grown by 22.4% since 2010. The Latino population in Benton and Washington County have seen significant increases, 19.5% and 28.7% respectively. The largest Marshallese population in the continental United States, estimated at around 10,000 to 12,000, lives primarily in the city of Springdale in Washington County, but is spreading to other parts of the service area. The African-American population has decreased to less than 10% of the total population for the first time.

c. Describe the most distinctive characteristics of the service area. Make note of things such as the service area's poverty, changes in population, area-specific legal issues, or other such characteristics.

One third of the counties have experienced persistent poverty over the past three decades (greater than 20% of the population in poverty), and two thirds of the counties have experienced persistent child poverty. Ten counties in the Mississippi River Delta have poverty rates averaging 26% while the average for the other 21 counties in the service area is only 19%. This region is home to three quarters of the African American population in the service area. The counties have higher rates of disability claims, alarming health outcomes and indicators, and significant substantive issues regarding employment barriers, such as recidivism. There is a decade's difference in expected longevity from Benton County, in the Northwest Corner of the service area, to Phillips County in the Southeast Corner. Language access issues

Overview of the Applicant’s Organization and Delivery System

Legal Aid of Arkansas, Inc.	Applicant Number: 604020
Service Areas: AR-6 2020	Total Funding Requested: \$1,478,027

exist in the immigrant community, mostly Latino and Marshallese, concentrated in the Northwest.

2. Describe the scope of legal services to be provided by the Applicant.

a. State whether the Applicant provides a full range of legal services including: limited as well as extended and contested cases; and a full range of case types. State whether the full range of service is extended throughout the service area.

Legal Aid of Arkansas provides a full range of services throughout the service area.

b. Briefly describe the service delivery method(s) employed by the Applicant (e.g., specialized law units, legal helplines, impact litigation, compensated and pro bono private attorney models, pro se).

Legal Aid allocates its resources to have the greatest impact for clients, with the goal of bringing about systemic changes in communities. Legal Aid is deliberate and thoughtful in the case acceptance approach, and case handling staff is assigned to one of four distinct substantive workgroups. These groups are Access to Safe and Affordable Housing; Protection from Domestic Violence; Consumer Law Issues (including Barriers to Employment); and Economic Justice (Public Benefits, Health Care, Education, etc.). Each group pays close attention to issues related to delivery of services to marginalized communities.

The HelpLine involves all Legal Aid attorneys having shifts in their area of focus, with callers being routed to one of four substantive law queues. When possible, advice is given during the initial call and level of service decisions are made on the same date that calls and applications are received. Walk-in, outreach/referral, and online intakes are part of the delivery method, though the HelpLine accounts for approximately 80% of intake.

Arkansas has not developed significant pro se resources. The legal aid programs have worked with partners such as the Arkansas Access to Justice Commission and Administrative Office of the Courts to develop some pro se platforms and forms.

The pro bono model is a traditional one. It grew substantially from 2012 to 2015 but has seen a significant decline in pro bono case closures each year since that time. Reversing this trend is a point of emphasis for Legal Aid. The pro bono model currently has three arms, the traditional Equal Access to Justice Panel, an Arkansas Volunteer Lawyers for the Elderly Panel serving clients 60 and older, and a specialized panel focusing on Medical-Legal Partnerships.

Legal Aid has two offices outside of our traditional 31 county service area, a Medical-Legal Partnership at Arkansas Children’s Hospital in Little Rock (Pulaski County) and a Fair Housing Office in that same community that opened on June 3, 2019. In addition to our Medical-Legal Partnerships and Fair Housing project, Legal Aid also accepts clients statewide in our Low Income Taxpayers Clinic, and we have just launched projects related to Adverse Childhood Experiences and Opioid recovery.

c. If the Applicant does not provide a full range of legal services, identify the parts of the service area that will not be served by the Applicant. That will receive limited services by the Applicant, or a sub-set of case types.

n/a

Overview of the Applicant's Organization and Delivery System

Legal Aid of Arkansas, Inc.	Applicant Number: 604020
Service Areas: AR-6 2020	Total Funding Requested: \$1,478,027

d. If the Applicant does not provide a full range of legal services, identify the other major providers the Applicant relies on to ensure a full range of legal services provided throughout the service area. Describe the legal services provided by the other major providers in the service area and identify how those services complement the services you provide. Discuss the most recent evaluation of the services provided by the other major providers, including any changes to the delivery system as a result of the evaluation. Identify any Memoranda of Understanding or other similar agreements, you have with major legal services providers in the service area.
n/a

3. Describe the most distinctive characteristics of the Applicant's Organization.

Legal Aid provides a full-range of services to a geographically and demographically diverse area, with some of the most impoverished counties in the nation, primarily African-American, in the East to some of the most affluent and fastest growing counties in the Northwest. There are large Latino and Marshallese populations in the Northwest. The organization has a diverse staff and Board that reflect the population served. The organization also engages in several innovative delivery models, including multiple Medical-Legal Partnerships, Criminal Reentry projects, the first Fair Housing Enforcement project in Arkansas in almost three decades, projects focused on Adverse Childhood Experiences and Opioid recovery, and integration of all attorney staff into the Intake/HelpLine system.

Uploads

The following uploads appear (in order)

Performance Evaluation & Monitoring Report (PEM)
Applicant PAI Plan (PAI Plan)
Financial Audits (Audits) (new applicants only)
Technology Plan
Organizational Chart
Resumes
Best Practice Submission
IRS Form 990
Accounting Manual
Certificate of Good Standing
Segregation of Duties Worksheet
Fidelity Bond or Insurance Policy
Special Fiscal Grant Conditions from Other Funders
Technology Budget Narrative
Current board approved strategic plan
Needs assessment report submitted to board to determine priorities
Leadership succession/transition plan
Technology use policy
Resource development plan
Client Success Stories
Applicant Certification (Form I)